A BETTER LEAGUE OF NATIONS

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LONDON
GEORGE ALLEN & UNWIN LTD
MUSEUM STREET

FIRST PUBLISHED IN 1934

PRINTED IN GREAT BRITAIN BY
UNWIN BROTHERS LTD., WOKING

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INTRODUCTORY

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It is not to be wondered at that the League, as now constituted, should fail, when severely tested, to prove itself an effectual guide to steer the world through circumstances of abnormal difficulty and crisis. After all, apart from its function of maintaining the Permanent Court of International Justice, the League is,

in substance, only a great agency for conciliation and agreement. It wields no effective powers of government, but provides a channel for the collection and exchange of knowledge upon matters of international concern and a meeting ground where a group of widely diverse nations, too numerous to make unanimity easily possible, and too few to ensure world-wide authority, can meet together, more or less in the public eye and under pressure from world public opinion, and endeavour to reach common agreement upon current problems of international relationship. How can it reasonably be expected that an organization with this comparatively limited scope should control the great national states and effectually hold in check their conflicting desires and ambitions?

Look around, and reckon up the character of the nations of which the world is composed, their divergent and competitive interests, their long addiction to policies of grasping selfishness and to reliance on force for advancing their own interests at the expense of other nations, and defending themselves against the attacks which their selfish and aggressive nationalism tends to encourage. Is it reasonable to expect that for a world thus composed an organization with the limited powers and equipment of the present League could prove an unfailing guardian of the peace, and provide an effective guarantee for justice, which is the indispensible condition of a secure peace?

The creation of the League was an acknowledgement of the need of world government, and a great step on the road to an ordered international life. The slight-

ness of its powers and the vagueness of its obligations were concessions to the timidity of Governments invited suddenly to plunge into a new and strange environment. Such concessions may well have been necessary in order to get the League established in the first instance. The constitution with which the Covenant first clothed this untried body must, by the nature of things, be more or less provisional, and the question how far it could wisely go at the outset in the direction of decision, as distinguished from conference, and compulsory law as distinguished from conciliation and voluntary agreement, and what field of operation it could wisely concede to majority rule, was a question of degree and expediency. Constructed on the basis eventually determined upon at the Peace Conference it would be able to evolve as experience should dictate, and in the meantime the absence of precise and stringent powers and obligations involved the minimum of deterrent against entry into its membership. If from the start the opposite course had been followed and the League had been constructed as a body equipped for exercising a drastic and specific compulsion and control over the activities of its members, its days of inexperience would probably have earned for it a reputation for tyrannical interference which would have been worse than its present reputation for weakness and inefficiency.

Its greatest defect lies in the fact that its membership is far from being universal and it is thus not a world authority, but only a part-of-the-world authority and restricted in its status and influence accordingly.

Apart from this its main elements of weakness are the requirement of unanimity in the Assembly and Council for all important decisions, and the absence of any real legislative power or power of giving binding decisions.

The moment seems to have arrived when in all these respects the League ought to be strengthened. Somehow it has got to inspire the confidence and loyalty of the world. To do this it needs to be strong and efficient. Broadly the aim and method of all really effective government are and must be the same, whether the field of government be that of a debating society or club, a corporation, church or school, a county council, a provincial government, a national government, a federal government or the government of the world society, consisting of national and federal states. The aim is to secure peace, order and contentment among the people who are subjected to the government, and the method must be to create some kind of organization, adapted to the needs of the particular case, which will protect the members and groups within the governed community from injustice, strife, and mutual interference, promote the common welfare of the community, and maintain peace within its borders. It does this by laying down just and impartial laws, general or special, for common guidance and common observance, and taking executive action in support of and in accordance with those laws. This statement provides not a definition but a broad description of the purposes to which any effective instrument of government must be directed, and in

the light of it the Covenant of the League clearly cannot be looked upon as such an instrument. Common sense denies the possibility of securing effective government in a community of sixty or seventy national states through an instrument dominated by the requirement of unanimity.

To the present author it seems and always has seemed a mistake that the Covenant of the League did not, from the start, go further in the direction of a real governing authority and give a larger field to the operation of majority rule and a larger recognition to the need of legislative power. Immediately upon the issue for public criticism in February 1919, by the Peace Conference, of the draft text of the proposed Covenant he wrote a series of notes which appeared as a commentary on the text as published in pamphlet form by the League of Nations Union. In the course of those notes a doubt was expressed "whether, even in the first instance, absolute unanimity ought to be required on every matter other than procedure," and in a later passage the following views were recorded:

"It is important that somewhere in the organization of the League machinery should be found for the development of international legislation. The Preamble recognizes the need for the establishment of the understandings of international law as the actual rule of conduct among Governments.

"If the world is to be put upon an orderly basis there ought to be a body of settled laws, which will define and publicly register the accepted rules of international conduct and will hold supreme and

undisputed sway over the corporate acts and consciences of nations. Surely it is through the League of Nations that the principles of international conduct must be developed and the resulting laws must be pronounced.

"Furthermore it is to be recognized that the League of Nations, when it starts, will be but a framework of the organization into which it will ultimately evolve. How is the evolution to be accomplished? Surely by the gradual formulation of laws creating, directing, controlling, and regulating the various activities of the League.

"In order to promote peaceful international co-operation some orderly and authoritative principles, adapted from time to time to the needs of the nations, must govern their mutual relations with respect to questions of boundary, immigration, economic and financial interests, postal business, copyright, extradition, the rule of the road, and all the multitudinous matters in which the interests of different nations touch and clash. Such principles also must govern the relations of all the nations to the League itself, and secure its effective action as the guardian of the rights and independence of nations, and the channel of co-operative service for the world. These principles need to be embodied in laws founded on the public opinion of the world and able to be changed and developed in response to that opinion. For meeting dangers as yet unforeseen, such as the invention of new forms of warfare, the enactment of authoritative laws will also be required."

This plea for the inclusion in the League's original constitution of machinery for international legislation found no response in the Covenant as it emerged in completed form from the Peace Conference, and the League has thus failed to secure the gradual development of power and status that such machinery would have facilitated.

At the Portsmouth Conference of the International Law Association in 1920 (the first conference of the Association after the outbreak of the War) the author read a paper on "Revision of the League of Nations Covenant," in which he again stressed, among other criticisms of the League's constitution, the need for legislative functions and for a fuller use of the majority vote. He wrote (to quote two passages from the paper), "I cannot help thinking that at any rate the will of an overwhelming majority of the Assembly, even in the early days of the League's career, ought to be protected against permament obstruction at the instance of a small minority of states representing a small minority of the population within the League, except, perhaps, with regard to certain defined purposes to be expressly reserved for unanimous decision"; and in a later passage, "Ultimately, as it seems to me, the most important work of the League will consist in the laying down, in a legal code, of the principles and rules which are to govern the conduct of states one towards the other. I see no means of effectually preventing war except the establishment of the reign of law among nations. Although the stages of evolution may be gradual, I think the League must and will

eventually become an organization in which some appropriate body or bodies will, by majority vote, lay down positive laws to regulate those matters of world concern which give rise to disagreement, friction, and difficulty between nations; laws which will be supported by the public opinion of the world and enforced, in case of need, by coercive machinery provided through the League."

From time to time the author has, in other papers, further developed the same theme, and in a paper on "World Legislation" read before the Grotius Society in February 1930, he advanced the view that world peace could not be placed upon a basis of substantial security without the establishment and maintenance of effective arrangements for world legislation, and that the great difficulties then being experienced by statesmen in negotiating arrangements for the reduction and limitation of armaments were due to their putting the cart before the horse, in that they were negotiating for this purpose before the world had been made sufficiently safe for disarmament on a large scale.

Timidity and lack of vision on the part of post-war statesmen and their inability to grasp or reluctance to face the realities of a changed and changing world have had the result that the League still stands waiting for the fuller equipment and ampler authority which are necessary for the achievement of its aims. The failure of the statesmen to rise to the requirements of the new situation has had the results that we now see—the economic and political condition of the world bordering on chaos and the nations gradually becoming

conscious of the fact that they have not the power or means of regulating their common interests in such ways as are necessary to bring order out of chaos.

To the people of all countries, if they realize the danger and loss and insecurity that dog their footsteps in an ungoverned world, it should be a matter of supreme interest and duty to face with courage and study with diligence the problems and difficulties of world organization, and to insist that their rulers and statesmen shall plan and contrive effective means for ensuring a peaceful and well-ordered world. There is no disguising the magnitude of the problem, but there is no reason why to a quiet and dispassionate examination it should not yield up its solution.

II

THE PRESENT CHAOS

THE present condition of the world has often and not inaptly been described as chaotic. The world comprises some sixty or seventy national states. These states are at various stages of civilization and progress, and present very diverse types of character and conditions. Within their own territories they all claim and profess to be regulated and controlled by some kind of sovereign power and machinery of government, which sets itself to prevent any one or more of the citizens from treading unduly on the toes of the rest, guides all the citizens so that they may be able to revolve harmoniously in their respective orbits, restrains them from mutual conflict, and impels them to work for the common good. But over the relations of these national states towards each other there is no equivalent control, and they assert as against each other theoretical claims of absolute independence.

These sixty or seventy states are far from living in isolation from one another. Admittedly there are close and ever tightening economic and other bonds of interdependence between them. But when we look for the means provided for preventing them from treading on each other's toes and making them revolve happily, as states, in separate and mutually consistent orbits, we find that those means are immature and

ineffective. Pious sentiments about peace and justice are freely bandied about, but the working spirit, the real policy and the corporate action of most of the states from day to day and from year to year are based not so much upon the pursuit of peace and justice as upon narrow and selfish views of supposed national interest and advantage, which result in a state of confused conflict and a sort of see-saw between illegitimate gains and disappointed hopes, and there is no sufficient machinery for bringing about a better state of affairs.

The nations are attempting to conduct their corporate life on a basis which has become obsolete and impossible. Within their own borders most states have in recent years tended to enlarge the sphere of government and contract the limits of individual freedom. But they still assert claims of absolute sovereignty and independence as against each other, and approach international questions with the idea that separate national advantage should be the dominating motive of their policy, oblivious of the fact that the growth of interdependence among them has made the pursuit of such ideas futile, and the resulting national efforts mutually destructive. The old-fashioned conception of international affairs may operate more or less satisfactorily in a world of states lightly populated and occupying widely separated territories, and affording comparatively few occasions for serious disputes or competition of vital interest with other states, but it cannot work safely or satisfactorily in a world like the present, where at every turn the interests of one

state and its inhabitants are inextricably intermingled with those of all or many other states.

The theory of the sovereignty of national states has been a fertile source of misconception, and in juristic writings even in modern times one may find such assertions as that "a state is an independent and sovereign unit, and over it no outside body can exercise authority unless the state has agreed to its doing so." Of course that is really nonsense. States have frequently exercised authority over other states without the agreement of the latter. It has been done by the savage method of war, and international law has treated conquest by war as one of the legal sources of title to territory. Such rights as those of intervention and peaceful reprisal, however vague and indefinite their nature, are a discount off the theory of independence; while the practice, now widespread, of entering into general conventions, even extending to so permanent and comprehensive an instrument as the Covenant of the League itself, imparts a highly illusory character to that theory.

But the fact that extreme claims of national sovereignty and independence have become out of place does not make nationalism an evil characteristic. An ideal world of states would need the qualities of strength and vigour and patriotic fervour in its component parts, for without strength in the parts the whole will not be strong. But the point is that a strong nationalism requires the accompaniment of a strong internationalism, and unless the activities of the component states are subject to a control which

will effectually prevent oppression and obstruction by one against another, and to a dominant principle of justice which will place the common good of the interdependent whole above the selfish desires of the individual components, only confusion can prevail, and mutual weakening and destruction, instead of mutual help and common gain, will become the natural process of evolution.

The Great War drove home more strongly than anything before had done the lessons of interdependence, and induced many of the nations to move with hesitating steps some distance along the road towards world government, but the real Rubicon was not then crossed, and has not yet been crossed. The members of the League have subjected themselves to a mild and beneficent influence, which affords plenty of loopholes for self-seeking in practice and for self-assertion in emergency, but they have not yet bound themselves to subject their self-seeking desires to criticism and control, upon all necessary occasions, by an authority with effective power, embodying the principles of peace and common justice, and seeking only the common welfare. That is the real act of faith which the nations have to face in order to put war beyond the pale. So far they have not screwed their courage to the sticking-point to face it. And so the drawbacks of chaos are with us still.

There are some things in which it pays to "go the whole hog," and some in which it does not. The complete renunciation of war and the unconditional

acceptance in advance of the impartial dictates of international justice, which is the necessary concomitant of that renunciation, is one of the things in which the "whole hog" policy would pay, and anything short of the "whole hog" is bound to be ineffective. The difficulties and drawbacks attendant upon taking steps short of the true goal are often overlooked.

Among the devices by which the nations have sought to mitigate the effects of the League's lack of legislative power and power of compulsory decision have been the adoption of a system of general conventions voluntarily accepted by many states, and the voluntary acceptance of compulsory jurisdiction for the Permanent Court of International Justice for limited classes of dispute. But many people do not realize how the state which accepts these voluntary contractions of its freedom, while there exists at the same time no general legislative power to which appeal can be made to reverse or vary the results, runs the risk of becoming entangled in commitments which it may subsequently find unwise and inconvenient, but incapable of change; and the risk also of finding itself, by reason of such commitments, weakened in relation to some other state not similarly bound. Often also it is not realized what a situation of confusion and injustice may ultimately arise from the existence of a large body of international rights and obligations which are in the nature of general law, but are not binding in their entirety upon the whole community of states, some applying only to one group of states and others applying only to other

groups. Some fine day international complications will probably occur which will bring home the drawbacks of this lack of general reciprocity.

Thus the machinery so far provided for centralized organization still leaves the world fundamentally chaotic. The danger of war and the fear of war have not been effectually extirpated. Unequal and unfair conditions and methods of international trade cannot be effectually controlled. Other economic injuries and injustices cannot be effectually warded off or remedied. The risks of international friction and rupture give an element of danger and speculation to the tightening of social and commercial connections between the people of different national states. Vast efforts are put forth to secure international agreement upon some policy of common benefit, and when the critical moment arrives action is held up by such an event as a general election or change of Government in France, Germany, or the United States, or the whole effort is rendered finally abortive by the obstinate intractability of a single state or a small group of states. The burden of armament still weighs down the backs of the people, and still dangling beyond their reach is the prosperity and comfort that might be gathered in if free and confident and stable relations could be established between the people of all countries, and international co-operation could have full scope.

The state of chaos between nations resulting from the absence of an adequate organization of international relations has inevitable repercussions in the

internal condition of national states. In nearly all countries confusion has been caused by the prolonged economic depression, and in some countries, probably owing mainly to the depressed economic conditions, political conditions have also been upturned. It is widely accepted that these conditions of internal distress and disturbance are due mainly to external causes, and that it is to international changes that we have to look for the true remedy. It is in the light of this conviction that the World Economic Conference assembled, but the efforts of that conference have not provided the hoped for remedies, or done much, if anything, to relieve the world's economic gloom.

The futility of the efforts of that conference is not to be wondered at when it is recollected that the only means at its disposal for achieving definite results was the bringing about of unanimous agreement among the vast concourse of national states which were represented in the conference, and whose representatives would bring with them to it the consciousness of all the conflicting self-interest, the mutual jealousies and suspicions, the rival schemes and discordant policies, and the traditions of independent action and self-regarding motive which have hitherto generally characterized these national states in their corporate relations.

This is the dismal tragedy presented to our view, through the world's having outgrown its existing garments, and having so far been too supine, too obtuse, or too uninstructed to set itself successfully

to the task of weaving a new garment suited to its present growth and evolution.

The lessons of the past have not been sufficiently learned. In 1899 and 1907 the institution of the Hague Conference was set up as a protection for peace. It obtained the adherence of all the principal countries of the world, but the powers and obligations created under its Conventions were insufficient to render it a real protection, and in 1914 the forces making for war swept it aside. The League of Nations is an institution of more serviceable character, but yet is far from providing all that the world needs for preventing war and guiding and controlling international relations and its serviceableness is vitiated by the fact that it has failed to obtain the adherence of some of the largest countries.

What picture would England present if the provision for regulation of its common interests were only equivalent to that which the world possesses to-day? To conjure up that picture we should have to imagine England with no Parliament representing the whole country, and empowered to decide questions and make laws by a majority vote, but with the county councils as supreme legislative and governing bodies in their respective counties, and central government provided for only by a joint committee representing the county councils for certain of the counties, forming, say, two-thirds of the area of the whole country; and we should further have to imagine this joint committee as being unable to take any important decision except by unanimity. Clearly we should not

think this a business-like or practical sort of organization, or one likely to conduce to peace and prosperity in the country, or indeed to anything but confusion and chaos.

III

EXISTING CONSTITUTION OF THE LEAGUE AND ITS ASSOCIATED ORGANIZATIONS

BEFORE entering upon the question of the changes that are desirable in order that the world may have in the League of Nations a better instrument of peace it will be advisable to give a short description of the existing constitution of the League. It will be advisable also shortly to describe the constitutions, functions, and procedure of the two organizations associated with it—the Permanent Court of International Justice and the International Labour Organization—in view of proposals which will follow later for the allocation of certain new functions to the Permanent Court, and the provision of means for giving binding effect by international legislation to Conventions adopted by the International Labour Organization.

Under the present Covenant the membership of the League is composed firstly of certain states and self-governing dominions which have been Members from the start by reason of the fact that after the war they either signed and ratified Peace Treaties in which the Covenant was set forth, or were mentioned in a list of invited states annexed to the Covenant, and acceded without reservation to the Covenant; and secondly, of states which have since qualified for election and been elected as Members in pursuance of the provisions of Article 1 of the Covenant. Such election requires

the agreement of two-thirds of the Members represented at a meeting of the Assembly. The qualification for membership by election is that the Member shall be a fully self-governing state, dominion, or colony, which shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval, and air forces and armaments. A Member may withdraw from the League after two years' notice of intention to do so, provided that all its international obligations and all its obligations under the Covenant have been fulfilled.

The main organs of the League are the Assembly and the Council, and both are helped by the Secretariat, which acts as a sort of international civil service, and the Secretary-General, who is the principal executive officer of the League and head of the Secretariat.

The Assembly consists of representatives of all the Member States. At its meetings each Member represented has one vote, and may have not more than three representatives. Ordinarily it meets once a year, in the autumn, but special meetings may be held at other times if occasion so requires.

The Council consists of representatives of:

(1) Members of the League entitled permanently to representation, the Members at present so entitled being the British Empire, France, Germany, Italy, and Japan. There is power for the Council, with the approval of the majority of the Assembly, to name additional Members entitled to permanent represen-

tation on the Council. (The position of Japan and Germany is exceptional, since they have both given notice of intention to withdraw from the League.)

(2) Members of the League selected by the Assembly from time to time in its discretion, the Assembly fixing by a two-thirds majority the rules dealing with the election of these non-permanent Members of the Council, and particularly such regulations as relate to their term of office and conditions of re-eligibility. At present there are nine such Members. There is power for the Council with the approval of the majority of the Assembly to increase the number. The present regulations provide that every Member selected by the Assembly for representation on the Council shall normally enjoy such representation for a period of three years, and then not be re-eligible until after an interval of three years. By a resolution passed by the Assembly by a majority of two-thirds of the votes cast, a Member may be re-elected without this interval elapsing. Such a resolution must be passed on the expiration of the term of office of the Member, or within the next following three years, and not more than three Members so re-elected before the three years interval has elapsed are to be on the Council at the same time. Notwithstanding these arrangements, the Assembly may at any time by a two-thirds majority proceed to a new election of all the non-permanent Members of the Council. Any Member of the League not represented on the Council must be invited to sit as a Member at any meeting during the consideration of any matters

specially affecting its interests. At meetings of the Council each Member represented has one vote, and may have not more than one representative.

The rule with regard to voting at meetings of both the Assembly and the Council is that, while on matters of procedure, including the appointment of committees to investigate particular matters, voting is by a majority, on other matters generally unanimity is required. There are certain exceptions, however, to the general rule of unanimity. Those in the case of the increase in the numbers of the permanent and non-permanent Members of the Council and the fixing of the rules dealing with the election of non-permanent Members have been mentioned above. Under Article 15 provision is made as to consequences that are to follow when a report by the Council upon a dispute between Members is, and when it is not, agreed to unanimously. For this purpose the votes of representatives of any parties to the dispute are to be excluded. Under the same Article it is provided that in any case where a dispute is referred over from the Council to the Assembly a report by the Assembly, if concurred in by the representatives of those Members represented on the Council and by the representatives of a majority of the other Members of the League, exclusive in each case of representatives of parties to the dispute, shall have the same force as a report of the Council concurred in by all the Members of the Council other than representatives of parties to the dispute. Under Article 26 amendments to the Covenant are to take effect when ratified by the

Members represented on the Council and by a majority of the Members represented in the Assembly.

There are also provisions in various treaties enabling majority decisions to be given on particular questions. For example, Article 40 of the Annex to the Versailles Treaty, relating to the arrangements connected with administration of the Saar Basin territory during the period of fifteen years and the settlement of the destination of that territory at the end of that period, provides that decisions which under that Annex are to be taken by the Council of the League may be taken by a majority. Again, Article 422 provides that amendments of Part XIII of the Treaty, which relates to the constitution and working of the International Labour Organization, if adopted by the International Labour Conference by a majority of two-thirds of the votes of the delegates present, shall take effect when ratified by the states whose representatives compose the Council of the League and by three-fourths of the Members of the League.

The absurdity of requiring unanimity as a general condition of the taking of action by the Council may be illustrated by the Manchuria question. Under Article 10 of the Covenant the Members undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members, and the Article provides that, in case of any such aggression or any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

Supposing that all the Members of the Council, except the representative of Japan (which was a permanent Member), had come to the conclusion that Japan had broken this Article, the Council could apparently, owing to the unanimity rule, have been prevented by the veto of Japan herself from advising that any action be taken against her under the Article.

Again, Article 16 deals with resort to war by a Member in breach of the Covenant. When such resort occurs all the other Members are required to join in an economic boycott of the offending Member. No provision is made for any decision, guidance, or direction by the Council as to when or how the Members respectively are to proceed with this grave measure. The Article goes on, however, to say that it shall be the duty of the Council to recommend to the several governments concerned what effective military, naval, or air force the Members shall severally contribute to the armed forces to be used to protect the Covenants of the League. If, therefore, all the Council except Japan had thought that the use of armed force against Japan ought to be recommended, Japan, as a Member of the Council, could apparently, under the unanimity rule, have vetoed such a recommendation.

The League has throughout adopted a very useful form of procedure for encouraging the attainment of unanimous decisions in the Assembly. It requires the business placed before it to be considered first in committees, which can make recommendations to the Assembly by a majority vote if they cannot arrive

at unanimous agreement. When the business afterwards comes to the Assembly for final decision great weight naturally attaches to the recommendation of a large majority on the committee, and Members that have objected to a proposal in the committee may often, as a result of that recommendation and the further discussion and pressure of opinion in the Assembly, be persuaded to withdraw their objections. At each Assembly six main committees are appointed, among which the business is divided according to its nature, each Member represented at the Assembly having a representative on each committee. These committees are as follows:

The first: Constitutional and Legal Questions.

The second: Work of the Technical Organizations.

The third: Disarmament.

The fourth: Budget, Questions of Internal Administration.

The fifth: Social and General Questions.

The sixth: Political Questions.

The Assembly also works upon the plan of treating a resolution passed by a majority as a recommendation (as distinguished from a decision).

Two subsidiary organs of the League should be mentioned, whose constitution is required by the Covenant. Article 22, which deals with the administration of the Mandated Territories, requires that a permanent Mandates Commission shall be constituted to receive and examine the annual reports of the Mandatories, and to advise the Council upon all matters relating to the observance of the Mandates.

This expert commission sits year by year for long periods, and performs in an impartial and highly praiseworthy manner the function of studying, criticizing, and reporting upon the government of these territories. Article 9 provides for the constitution of another permanent commission to advise the Council on the execution of Article 8 (which deals with the reduction and limitation of national armaments), and Article 1 (which requires new Members to accept such regulations as may be prescribed by the League in regard to their military, naval, and air forces, and armaments), and upon military, naval, and air questions generally.

The Permanent Court of International Justice occupies mainly an independent position, but its expenses are paid by the League, and the Council and Assembly of the League have the right to submit to it cases for advisory opinion. It is regulated by its own statute, which is accompanied by a protocol, or agreement, signed and ratified by the states that recognize the statute.

The Court is open to all states, including those that are not Members of the League; but only states, and not private persons or bodies, can be parties to actions before it. The ordinary jurisdiction of the Court depends upon agreement between the litigant states to submit to the Court a dispute of an international character. Such an agreement may be one to submit a particular case, or may be a general agreement to submit all disputes of a defined class, or an agreement containing a provision for submitting all disputes

arising out of that agreement. Article 36 of the Statute of the Court further contains a provision empowering a state when signing or ratifying the protocol recognizing the statute, or later, to declare that it recognizes as compulsory, *ipso facto*, and without special agreement, in relation to any state accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning:

(1) The interpretation of a treaty.
(2) Any question of international law.
(3) The existence of any fact which, if established, would constitute a breach of an international obligation.
(4) The nature or extent of the reparation to be made for the breach of an international obligation.

This declaration may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time. In the event of a dispute as to whether the Court has jurisdiction the matter is to be settled by the decision of the Court.

The Court consists of fifteen judges and four deputy judges, elected at intervals of nine years by concurrent resolutions passed by an absolute majority of the Members of the League represented at a meeting of the Assembly and of the Members represented at a meeting of the Council. The candidates for election are nominated by the national groups in the old Court of Arbitration at The Hague, established under the Hague Convention of 1907 for settlement of international disputes. These groups are themselves

appointed by the states that are parties to that Convention. Any influence the Governments can exercise over the choice of candidates for judgeships of the Court is therefore only indirect. The candidates are to be persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. The judges are to be elected regardless of nationality. When engaged on the business of the Court they enjoy diplomatic privileges and immunities. They cannot be dismissed unless in the unanimous opinion of the other members of the Court they have ceased to fulfil the required conditions. The quorum is nine. Decisions are by a majority of the judges present at the hearing. They are final and binding as between the litigant states, and there is no appeal, but application may be made to the Court for the revision of a judgment on discovery of a new fact of a decisive nature. The salaries of the judges and the other expenses of the Court are borne by the League.

The International Labour Organization (commonly called the I.L.O.) is a permanent organization established by Part XIII of the Versailles Treaty, for the promotion of the objects set forth in the interesting and striking preamble to that part of the Treaty which reads as follows:

"Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice.

"And whereas conditions of labour exist involving such injustice, hardship, and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease, and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of freedom of association, the organization of vocational and technical education, and other measures.

"Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.

"The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following."

It will be seen that the train of thought in this Preamble suggests that the labour provisions will tend to promote peace in two ways; firstly, they will give to the mass of the people in all countries a reasonable standard of life, protection against injustice, and

facilities for improving their position, and so will encourage a greater spirit of contentment throughout the world; and secondly, they will prevent a low standard of labour conditions in one country from producing conditions of competitive trade so prejudicial to other countries as to discourage those other countries from improving their own labour conditions, and indirectly form an obstacle to the maintenance of the permanent peace of the world.

The Organization has for its Members those states that are Members of the League of Nations. Its organs are a General Conference of representatives of the Members and an International Labour Office at Geneva with a Governing Body in control of it.

The General Conference meets at least once in every year. It is composed of four representatives of each Member, of whom two are Government delegates, and the two others are delegates representing respectively the employers and the workpeople of that Member. Each delegate may be accompanied by advisers, not exceeding two for each item on the agenda. The non-Government delegates and advisers are nominated by the Member States, but for this purpose the Members undertake to nominate persons chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries. Every delegate is entitled to vote individually on all matters taken into consideration by the Conference.

The Governing Body controlling the Labour Office

consists of twenty-four persons, of whom twelve represent the Governments, and six are elected by the delegates to the Conference representing the employers, and six by the delegates representing the workers. Of the twelve representing the Governments, eight are nominated by the Members which are of the chief industrial importance, and four are nominated by the Members elected for the purpose by the Government Delegates to the Conference other than Delegates of those eight Members. Any question as to which are the Members of chief industrial importance is decided by the Council of the League. The Members of the Governing Body are elected for three years. They elect one of themselves as chairman, regulate their own procedure, and fix their own times of meeting. A special meeting must be held if a written request to that effect is made by at least ten Members of the Body.

The International Labour Office is under a Director, who is appointed by the Governing Body, and is subject to the instructions of that body. In selecting the staff of the Office the Director is required, so far as is possible with due regard to the efficiency of the work, to select persons of different nationalities. A certain number of the staff must be women. The Office conducts the routine work of the Organization, and has among its special functions the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour, and particularly the examination of subjects which it is proposed to bring before

the Conference with a view to the conclusion of international conventions, and the conduct of such special investigations as may be ordered by the Conference.

The expenses of the Organization are paid out of the general funds of the League.

The end to which the work of the Conference is directed is the adoption of:

(*a*) recommendations to be submitted to the Members for consideration with a view to effect being given to them by national legislation or otherwise; or

(*b*) draft international conventions for ratification by the Members.

The agenda for the Conference is settled by the Governing Body, who must consider any suggestion made by the Government of any Member or by any representative organization recognized for the purpose of agreeing upon the nomination of non-Government Delegates to the Conference. The Government of any Member may lodge an objection to the inclusion of any item on the agenda, but an item objected to is not to be excluded if at the Conference a majority of two-thirds of the votes cast by the Delegates present is in favour of considering it. The Conference may itself decide by a similar majority to consider any subject, which is then to be included in the agenda for the following meeting. The Conference regulates its own procedure, elects its own President, and may appoint committees to consider and report on any

matter. Except as otherwise expressly provided in Part XIII of the Treaty, all matters are decided by a simple majority of the votes cast by the Delegates present. The voting is void unless the total number of votes cast is equal to half the number of Delegates attending the Conference.

A majority of two-thirds of the votes cast is necessary on the final vote of the Conference for the adoption of any recommendation or draft convention. In framing any recommendation or draft convention of general application the Conference is to have regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances make the industrial conditions substantially different, and is to suggest the modifications, if any, which it considers may be required to meet the case of such countries.

Each of the Members undertakes, by Article 405, that it will, within one year, or if that is impossible, within eighteen months from the close of the session of the Conference, bring the recommendation or draft convention before the authority or authorities, within whose competence the matter lies, for the enactment of legislation or other action. The Members are to inform the Secretary-General of the League of the action taken on the recommendations, and of the formal ratification of conventions, and they are to take such action as may be necessary to make effective the provisions of any convention ratified. No Member is to be asked or required, as a result of the adoption of any recommendation or draft convention by the

Conference, to lessen the protection afforded by its existing legislation to the workers concerned. If any Member fails to take the action required by Article 405 with regard to a recommendation or draft convention, any other Member is entitled, under Article 416, to refer the matter to the Permanent Court of International Justice.

If a representation is made to the International Labour Office by an industrial association of employers or workers, that a Member has failed to secure effective observance within its jurisdiction of any convention to which it is a party, the Governing Body may communicate the representation to the Government of that Member and invite a statement in reply. If the statement is deemed unsatisfactory by the Governing Body, or no statement is received within a reasonable time, the Governing Body may publish the representation and any such statement made in reply.

A Member that has ratified a convention may file a formal complaint against another Member that has ratified the same convention, alleging that the latter is not securing effective observance of the convention. As a result of the filing of such a complaint, or on its own motion, or on receipt of a complaint from a Delegate to the Conference, the Governing Body may take steps for the appointment of a Commission of Enquiry to consider the matter. The Members of the Commission are to be three in number and nominated by the Secretary-General from three sections of a panel of persons of industrial experience nominated by the Members. Each Member nominates one person

for each section of the panel. The sections are to be composed respectively of representatives of the employers, representatives of the workers, and persons of independent standing. The Secretary-General is to choose one Commissioner from each section, and to designate one as President of the Commission. The Commission is to make a report containing its findings of fact and recommendations as to the steps to be taken, and the measures, if any, of an economic character against a defaulting Government which it considers appropriate, and thinks other Governments would be justified in adopting. Article 415 requires that the report shall be published and communicated to each of the Governments concerned in the complaint. Each of those Governments is to inform the Secretary-General within a month whether or not it accepts the recommendations contained in the report, and if not whether it proposes to refer the complaint to the Permanent Court of International Justice.

The decision of the Permanent Court with regard to a complaint or matter referred to it in pursuance of Article 415 or of Article 416 (previously mentioned) is to be final. The Court may affirm, vary, or reverse any of the findings or recommendations of the Commission of Enquiry, and is to indicate in its decision the measures, if any, of an economic character which it considers appropriate, and thinks other Governments would be justified in adopting against a defaulting Government. If any Member fails to carry out within the time specified any recommendations in the report of the Commission of Enquiry, or in the decision of

the Court any other Member may take against that Member the economic measures indicated in the report or decision as appropriate. Provision is made for securing a discontinuance of such measures when the defaulting Government has taken the steps necessary to comply with the recommendations.

Any question or dispute relating to the interpretation of Part XIII of the Treaty, or of any subsequent convention concluded by the Members in pursuance of the provisions of that Part, is to be referred for decision to the Permanent Court.

In regard to the extent to which the International Labour Organization has succeeded in inducing the Member States to make the Conventions binding within their territories it is instructive to find, from figures given in August 1930 by the present Director of the International Labour Office, that up to that time thirty-one Conventions had been adopted by the Conference, out of thirty-five presented, and 402 ratifications had been registered at the Secretariat of the League. This amounts to an average of only about thirteen States per Convention, as compared with the number of States in the League, which was then fifty-five.

The provisions summarized above are contained in Section I of Part XIII. In Section II certain principles and methods for regulating labour conditions are laid down as a sort of general law to guide the early activities of the International Labour Organization. It seems of sufficient interest and importance for quotation in full.

"The High Contracting Parties, recognizing that the well-being, physical, moral, and intellectual, of industrial wage-earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I, and associated with that of the League of Nations.

"They recognize that differences of climate, habits, and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But holding as they do, that labour should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.

"Among these methods and principles, the following seem to the High Contracting Parties to be of special and urgent importance:

First—The guiding principle above enunciated that labour should not be regarded merely as a commodity or article of commerce.

Second—The right of association for all lawful purposes by the employed as well as by the employers.

Third—The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

Fourth—The adoption of an eight-hours day, or a forty-eight-hours week as the standard to be aimed at where it has not already been attained.

Fifth—The adoption of a weekly rest of at least twenty-four hours, which should include Sunday, wherever practicable.

Sixth—The abolition of child labour, and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development.

Seventh—The principle that men and women should receive equal remuneration for work of equal value.

Eighth—The standard set by law in each country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers lawfully resident therein.

Ninth—Each state should make provision for a system of inspection in which women should take part, in order to secure the enforcement of the laws and regulations for the protection of the employed.

"Without claiming that these methods and principles are either complete or final, the High Contracting Parties are of opinion that they are well fitted to guide the policy of the League of Nations; and that, if adopted by the industrial communities who are members of the League, and safeguarded in practice by an adequate system of such inspection, they will confer lasting benefits upon the wage-earners of the world."

IV

GOVERNING PRINCIPLES OF CHANGE

Now that we have taken stock of the conditions of membership and the existing organs of the League and the constitutions and functions of its associated organizations, we are in a better position to enter in a practical manner upon the consideration of the problem how by means of changes in the League to find a way out of the international chaos. If a way out can be found there can be nothing more important for the people in every part of the world than that their rulers and statesmen should pursue it and should start upon it without any unnecessary delay.

Let us begin the consideration of the problem by referring to certain characteristics which any solution must present.

The first thing is that any solution will be useless which does not rest upon sound principle and reason and thus have the quality of permanence. We need to get away from the vicious habit of hand-to-mouth expedients, temporary postponements and evasions, and illusory compromises which has poisoned international relations since the war.

The next thing is that we should, as far as possible, build further upon the international structures already erected and not augment the task and unnecessarily challenge opposition by opening up entirely new ground.

Another thing is that we should remember that our problem, however large its scale, is one dealing with the government of groups of men, and we shall be wise if we take advantage of the mass of experience humanity has already gained in dealing with the government of men and groups of men within more limited areas. It is often glibly said that argument by analogy is no argument at all, and that there is no analogy between international affairs and the internal affairs of a state. The first proposition is only a half-truth. The second is not a truth at all. The methods and expedients that have proved efficacious in guiding and controlling the conduct and relations of men in small groups of varying degrees of diversity and at various stages of civilization, are highly valuable aids to the determination of the best means of guiding and controlling the great and diverse national groups which together constitute the world of states.

We must not be afraid of the bogey of nationalism. Any organization by which the world is to be effectively governed must have great strength and vitality, and it will not have these qualities unless there is strength and vitality in its component states. What is needed is not to suppress those strong feelings of patriotism which stir men to active and devoted effort for the good of their own national state, but to attract those same feelings out into the wider arena of the world, so that men may bring the same devotion and activity to the service of the world's common good, and to the working of the common world organization that they bring to the service of their own national states.

Each individual today is dependent for his life and welfare not only on the doings of his own country but on the doings of all countries in the interdependent world. If he is a wise man he will interest himself in the doings of this world which affects him so much. He will form his own opinion about world policies and use such means as are open to him, through the influence of public opinion on the foreign policy of his own Government or by other means, to keep the world as a whole going straight. In this way a world patriotism will develop. The individual will think of himself as a part of the world community in much the same way as he thinks of himself as a part of his national state or the county or parish in which he lives and works. The development of this sentiment and habit of thought will of course be facilitated as a common governmental organization of the world develops. The organization will provide a concrete object to which the sentiment can attach itself.

We must not be afraid of the bogey of national sovereignty. Those who want really to prevent war, and not merely to talk about it, must be prepared to turn their backs on past theories of sovereignty and to look objectively at the facts of the new day and take such measures as those facts dictate. We must think of the world as a unity which demands its own appropriate sovereignty, and leave the theorists to adjust their ideas of national sovereignty to this altered conception of the world's affairs as best they may. The times are too grave to allow practical needs in vital matters to be delayed and thwarted by mere abstract theories

which have ceased to work satisfactorily in the world of today.

In surveying the problem we must keep clearly in mind the nature and spheres of operation of the ideas, forces, and processes with which we have to deal. Let us look for a moment at some of the principal ones.

Justice is the essential substitute for and antidote to self-interest, self-will and self-redress. A nation, like a man, if it cannot have its own way, will not willingly submit to going another way except under a direction which it regards as impartial and just, and not a direction merely dictated by rival interests. Unless international justice can be guaranteed you will have international war, just as within a state, if reasonable justice is not obtainable, you have rebellion and revolution. Therefore justice must pervade any international organization that is to prove an effectual preventative of war.

Justice is impossible except on a basis of truth. If wrong facts are represented or assumed there can be no guarantee of just deductions and conclusions. Therefore the organization that is to be a reliable source of justice must have the necessary means for arriving at the true facts about any matter with which it has to deal.

Justice and law must be carefully distinguished. Law is a common and useful instrument for securing the dominance of justice; but law and the rights and obligations recognized or conferred and imposed by law as existing at any particular time or on any

particular matter may be unjust and require correction in order to accord with justice. Law rests on the upholding of pre-existing promises, which may be either specific promises given by agreement or the implied promise to observe common regulations of the community. Justice ordinarily requires the observance of these promises but sometimes may dictate a change of or release from a promise.

A standard is needed for determining what is or is not just. So far as there is existing law applicable and just in character the law affords the obvious standard. Where there is no such existing law or the law is unjust and requires to be changed the obvious standard of justice is the common good of the whole community. In national government it is the common good of the community that is taken as the just aim in the framing of new laws, and the common good of the world similarly affords the proper standard of justice in making any re-adjustments of the legal relations between states.

Law must also be distinguished from morality. Law is something which a community sets itself to enforce. Morality is something which gets its authority not from the undertaking or practice of a community to enforce it, but from the favour of a commonly prevailing opinion or fashion.

Four different methods for settling disputes and regulating or adjusting mutual conduct and relations must be distinguished, namely, Conciliation, Judgment or judicial decision, Arbitration and Legislation. Conciliation is a process of arriving at an agreed

settlement through conciliatory effort. Judgment or judicial decision is a process of final determination of disputes on the basis of the application of law by a permanent tribunal set up by the community. Arbitration is a process of final determination of disputes on the basis of the application of law by a special tribunal set up for the particular dispute by agreement between the parties to the dispute or by some procedure agreed to by them. Legislation is the making of new law either for general application to a community or for application to a particular set of circumstances. Mischief may easily result from the inaccurate use of expressions of this kind.

Another much used expression that needs to be used with discrimination is "security." As an aim of international organization "security" is delusive if it is looked at, as unfortunately it appears to be in many quarters, as importing merely the protection of particular nations against violent interference with their existing legal status and rights. The only fruitful meaning of the expression as representing an aim of international organization is the protection of all nations against all war or violent trespass; or, in other words, security for general peace and common justice upon which all may rely with equal advantage.

In the framing of any arrangements for international organization a careful line needs to be drawn between three separate classes into which the functions of government fall, namely, legislative, judicial and executive. This is of special importance because

experience of national government has shown that each of these classes of function generally requires a different type of body for its discharge. In primitive communities the functions may be combined in a king or chief, but as civilization has developed and populations have become more densely massed the necessity for classification has grown, and these three divisions have become clearly marked out. The legislative function is concerned with the making of law; the judicial with its interpretation and application to particular circumstances; and the executive with its administration and enforcement.

A dominating element in the whole problem of international organization is the necessity of recognizing that circumstances are always changing and the need is continually growing for change and adaptation of existing laws and legal rights and obligations to the changed conditions of circumstances. Unless therefore the organization is flexible, and contains within itself the power and necessary machinery for changing and adapting its own nature and its own ordinances from time to time as occasion demands the organization will fail to meet the world's needs and be liable to become the victim of revolution or decay.

Another dominating element in the problem is the necessity of preserving a right balance between the claims of national freedom and international control. It is the old problem of individualism versus collectivism in a new setting. One person may think of the life and development of the individual nation as being the important aim and regard any international

organization simply as a method of advancing that aim, and preventing the individual nation from being thwarted in its development by the activities of other nations, and so may wish to confine the processes of organization within the narrowest practicable limits. Another may look upon the individual nation as a minor fragment of the world community and regard the life and development of the whole community of nations as alone worthy of consideration.

For us of the present generation, at any rate, the true line is to regard both national communities and the whole world community as equal objects of our solicitude and to aim at the maintenance of national freedom for the individual nation except so far as it must, for its own preservation, or ought, out of reasonable consideration for the freedom of other nations, and the common interests of the whole community of nations, to be subjected to a common world control. We need to look upon world control not merely as an instrument for assisting individual nations to protect and secure their national life and develop it to its highest perfection, but also as an instrument for cultivating and developing the common life and interests of all nations as a world community. It is evident that the question where to draw the line between freedom and control at any particular time must be a difficult one. Probably the best answer to that question at the present time is that national freedom should be obliged to give way to international control so far as this is necessary in order to prevent war, remove fear of war, and provide fair conditions

for international trade and reasonable security for general contentment and economic welfare.

The pursuit of these objects brings us up against the thorny problem of interference with the domestic jurisdiction of national states.

International law has recognized that there is, under some extreme conditions, a legitimate sphere for interference with the internal affairs of a state by another state or a group of states. The doctrine has been vaguely laid down and there have been widely differing opinions as to its extent and application, but perhaps it may be said broadly, that when through domestic misgovernment there is such risk to the lives and property of foreigners that flesh and blood can stand it no longer, some intervention by outside Governments in the domestic affairs becomes legitimate.

The Covenant of the League weakly lays down in the eighth paragraph of Article 15, that on the reference of disputes to the League no recommendation for settlement shall be made if the dispute arises out of a matter which is solely within the domestic jurisdiction of one of the parties. It seems clear that acts of tyranny, oppression or injustice done in the exercise of domestic jurisdiction may prove in the end a source of war, and the League cannot be in the best position for rooting out the causes of war if it is thus strictly warned off from dealing with disputes arising out of domestic jurisdiction.

In some other respects, however, the League arrangements recognize new fields for international interference with domestic affairs. The establishment of

the International Labour Organization with a view to the promotion of uniform and fair conditions for employment of labour is one example of this. Another is the jurisdiction given for protection of minorities in certain countries; another the mandate system; another the duty of bringing about arrangements for reduction and limitation of national armaments.

Looking at this matter from the point of view of broad principle it seems only reasonable that the organized community of nations, if it undertakes certain difficult and responsible functions for securing peace, justice and better possibilities of prosperity for all the individual nations, should be entitled in return to exact from each individual nation the attainment of some reasonable minimum standard of domestic government in the interests and for the security of foreign residents and other nations, and with a view to the prevention of such friction and discontent as may be likely to prove a source of war.

One branch of international organization with regard to which the laying down of guiding principles presents great difficulties is that of sanctions for securing the performance of obligations. Anticipation has suggested and experience has proved that in international affairs publicity and the force of public opinion will go a long way in holding nations in the paths dictated by justice and obligation. But anticipation has also contemplated and experience has now shown that at any rate where major and deep-lying interests of powerful states are concerned, even a strong and unanimous expression of world opinion

cannot be relied upon unerringly to command respect and obedience. We seem driven therefore to the conclusion that in international as in national affairs some more drastic sanctions, or methods of pressure or punishment, must exist in reserve to enable the world community to exact obedience from its individual Members if they should seek to resist its united will in matters with respect to which the will of the community is entitled to prevail. How that principle is to be applied will need careful thought.

Last, but most important of all, comes the principle of universality. The true League of Nations must be a World Organization and not merely a Society consisting of a certain number of states representing particular sections of the world.

In a paper written early in 1915, though not published until three years later, looking forward to the constitution of an international organization at the end of the war and trying to foresee the main characteristics with which the organization should be clothed at the first stage of its evolution, the present author set down, as the most important point to keep in mind, that the organization should consist of the greatest possible number of civilized states. Numerical strength was described as being important on three grounds. First, in order to bring within the pacific influence and control of the organization the maximum number of possible disturbers of the world's peace, and to prevent the formation of rival groups or leagues. Second, in order to give such authority and backing to the united voice of the organization as would

reduce to the minimum the chance that that united voice might need to summon force for procuring obedience. Third, in order that the decisions of the organization might be based on a sufficiently wide foundation, and not be overbalanced by one-sided views and sectional influences.

The opinion thus expressed early in 1915 and the reasons then given for it remain equally valid today. The greatest disaster the League has ever suffered was the failure of the United States to confirm President Wilson's acceptance of the privilege and responsibility of League membership. Its greatest weakness has been its lack of universality, and today, when the League has reached the testing stage and come face to face with world problems of vast difficulty and significance, it is the defection of certain states which forms the greatest danger to the future functioning of the League and to the maintenance of international peace.

After all, the requirement that all nations should be within the scope of any international organization that may be established is only common sense. National affairs form a useful analogy, for none would think it sensible to suggest that England, for example, could be organized and governed effectively if Yorkshire, Somersetshire and Kent were disfranchised and excluded from obligation to contribute to the taxes and obey the national laws, and if they disclaimed any share in public duties and responsibilities.

Such being the broad principles in the light of which the problem ought to be approached it remains to consider how they should be applied, what changes

they require in existing arrangements, and what new arrangements must be introduced for giving them effect, emphasizing in advance the vital truth that men and women the world over, whether they find such arrangements congenial or uncongenial to their existing theories and preconceptions, will fail only at their own peril to give them thoughtful consideration, for these things provide the alternative to future war, and war now is no respecter of persons.

In order to give as practical a turn as possible to the conclusions reached an actual draft of the amended form of Covenant suggested is set out in an appendix. If the reader knows the existing Covenant from A to Z he may like to turn at once to the Appendix and see what the new proposals provide in detail and how they differ from the present arrangements, and then come back to the intervening chapters for reasons and explanations. If he has not that close familiarity with the existing Covenant he will do well to take these intervening chapters in their ordinary sequence. They explain the nature of the principal changes proposed.

V

CONSTITUTIONAL CHANGES

HAVING discussed in the last chapter the broad principles which should govern any proposals for change in the international system we come now to the question of the desirability of constitutional changes in the League of Nations.

The subject presents four main aspects, namely, membership, division of functions, new machinery, and majority voting, although in dealing with it these aspects cannot be kept entirely separate.

First then as to membership.

The importance of universality in the membership has been sufficiently emphasized in the last chapter. It seems impossible, at present at any rate, for the League to compel states to enter upon the responsibilities of membership against their will, but it seems feasible to go so far in the promotion of universality as to remove the barrier of election and all qualification except that of being a recognized and fully self-governing state dominion or colony, and acceding without reservation to the Covenant. It would be possible also to deny any liberty of withdrawal to existing members that have not already exercised the option of withdrawal and to all new members hereafter accepting League responsibilities. Every state that has once agreed to come in should be expected and bound to share permanently in the obligations, responsibilities,

powers and advantages of the world organization. Continued membership should be regarded not as a privilege, like the membership of a club, but as a duty. The provisions of the appended draft Covenant have been framed on these lines.

This, however, does not complete the matter, for the question may arise what states and what dominions or colonies are "recognized" as fully self-governing. This opens up a highly unsatisfactory element in the present international regime. International law has in modern times looked upon the civilized world as being made up of independent communities having permanent existence and possessing definite territories and being represented for the purpose of international relations by the Governments from time to time established within such communities. The duty is left to other communities to decide whether or not to recognize that a particular state is entitled to hold this position of an independent community or sovereign state, and also to decide what authority should at any particular time be recognized as the Government established within and entitled to represent the community.

These duties may and do involve difficult and delicate questions in cases where territorial or constitutional changes are in process, and the unfortunate situation may arise that a particular community or Government is for considerable periods recognized by some and unrecognized by other states. It is a thoroughly unsatisfactory position of affairs and the obvious remedy is for the League to act on behalf of all states

of the world for the purpose of determining from time to time what communities and Governments shall be recognized and what shall be the territories over which their jurisdiction shall be acknowledged to extend. In case of any dispute arising at any time as to the boundaries which ought to be recognized for the territories of any Member that dispute ought to be settled by the same procedure as is provided under the Covenant for other disputes. It may be a dispute of a legal type, such as a dispute about the legal rights of different Members with respect to particular territory, or of a non-legal type, such as a dispute arising from a claim being made by a Member to be recognized in respect of particular territory on grounds other than those of previously existing legal right. Change of circumstances would be an example of such a ground.

As to the division of functions the first point to be made is that the Assembly, since it is the organ in which all the Members of the League are represented, ought clearly to be the repository of the chief and ultimate authority in the League. For practical purposes that seems tantamount to saying that it should be the legislative authority of the League, for of the three great divisions of governmental authority, the legislative, judicial, and executive or administrative, it is the legislative which necessarily holds the dominating position, since the laws it makes guide and direct, and can if necessary overrule the opinions, desires, decisions, and acts of the judicial and executive bodies.

The Permanent Court is clearly pointed to as the

appropriate repository of the judicial functions of the League. The Council is no less clearly pointed to for occupation of the position of the executive and administrative body of the League.

Under Articles 3 and 4 of the Covenant, the same words are used to describe the general function of both the Assembly and the Council. Each is stated to be entitled to "deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world." It seems a mistaken policy thus to encourage the idea of an equality of status and function between the two bodies, and the appended draft Covenant expressly provides that the powers of the Council shall be exerciseable subject to the control of the Assembly.

Article 15, which deals with international disputes, while it properly entrusts the Council with the duty of making preliminary enquiries and using efforts at conciliation, functions which can appropriately be performed by an executive body, invites the Council to trespass improperly into the judicial province when it lays upon it the duty, if its conciliatory efforts are unsuccessful, to come to a conclusion and make a formal recommendation as to terms upon which the dispute should be settled, regardless as to whether the dispute is of a legal or non-legal type.

The same Article provides for the possibility of a dispute being referred over to the Assembly within fourteen days after its submission to the Council, and in such a way that the Assembly is placed in the same position as the Council for dealing with the dispute,

and so becomes responsible for the preliminary enquiries, conciliatory efforts, and final recommendations in the same way as the Council would have been. The Assembly is thus invited to invade both the executive and judicial provinces, for neither of which is a large representative body like the Assembly properly fitted. The appropriate province for a body of legislative type in relation to the settlement of international disputes extends only to cases of a non-legal nature—that is to say, where the decision involves departure from the legal *status quo* and creation of new legal rights or obligations, so that the process is, in substance, one of legislative and not judicial character. Even within this province a legislative body like the Assembly cannot act conveniently or appropriately except as a confirming, rejecting or revising body, after the facts of the case and the contentions of the disputant parties have been examined and sifted and weighed by a smaller and impartial tribunal upon which the legislative body can rely for a truthful presentation of the facts and circumstances which are alleged to require the exercise of legislative power.

The League has at present no organ suitable for the discharge of this function of the impartial consideration of non-legal disputes as a preliminary to the exercise of the final authority of the Assembly over their settlement. It is suggested that a Tribunal of Equity ought to be created for this purpose, and in the draft Covenant set out in the Appendix such a tribunal is provided for and modelled to some extent upon the Permanent Court of International Justice but with the

differences appropriate to the different purpose it has to fulfil. It is called the Tribunal of International Equity. The Commissioners of which it is composed would be appointed in the same way as the judges of the Permanent Court except that the panel from which the candidates would be chosen would be a separate panel to which the nominations would be made directly by the Governments of the Member States. It is to be expected that for a tribunal of this kind the Governments would nominate statesmen and men of affairs rather than persons qualified only by judicial or legal experience.

After enquiry into the facts and hearing of the parties concerned in the dispute the Equity Tribunal, instead of giving a final judgment, binding upon the parties, as the Permanent Court would then proceed to do, would make a report containing a statement of facts and any recommendations which the Tribunal deem just and proper in regard to the dispute. A recommendation so made by the Tribunal would not of itself have binding force over the parties to the dispute, but binding force could be given to it by its being confirmed by a special Resolution of the Assembly, a special Resolution being defined as being a Resolution passed at a meeting of the Assembly by a majority of not less than three-fourths of the votes given on the resolution.

The creation of this Equity Tribunal constitutes the principal change required under the heading of new machinery.

With regard to the question of majority voting it is

suggested that the whole endeavour to work by unanimity should be thrown overboard as being hopelessly unpractical, and that the ordinary rule governing the proceedings of the Assembly and Council should be that a bare majority should prevail as it does in the proceedings of the Permanent Court of International Justice, but certain matters of special importance should be singled out as requiring the support of a three-fourths or two-thirds majority. It will be remembered that two-thirds is the majority required for the adoption of recommendations and draft conventions by the International Labour Conference.

Majority voting being thus recognized as necessary, if the machinery is to succeed and yield practical results, the question of the relative voting power of the different Member States at once assumes an importance which it does not have so long as unanimity is the prevailing rule. While states large and small may fairly claim equal treatment and a complete absence of preference or priority in the application of the laws and principles and powers of the League, it would be unreasonable if in the determination of questions as to what laws and rules and new conditions shall govern the common affairs, a state with small area, population, and interests should wield the same influence and power as a state much larger in all these respects.

In a body such as the Permanent Court, whose members are not representatives of states, but are chosen on account of their individual merit, and

entrusted with the task of impartially ascertaining facts and applying existing law, the vote of each member rightly counts the same as the vote of any other member, although for purposes of practical working, in order to be sure that an equal division of opinion shall not paralyse the body by preventing any decision from emerging, a second or casting vote has to be given to the President, to be exercised only when there is equality in the voting. In the same way equality in the voting would be the appropriate rule in the proposed Tribunal of International Equity.

If the Council of the League be confined, as proposed, to its proper function of acting as an executive and administrative organ to give effect, under the control of the Assembly, to the laws and decisions determined upon by the Assembly, a similar principle will apply to it. The Members of the Council will have no concern with anything but the impartial ascertainment of facts and application of recognized principles and rules, and ought not to be influenced in their judgment by the particular interests of the states they represent, any more than the judges of the Permanent Court should be influenced by the interests of the states of which they happen to be subjects. The Council acts on behalf of the whole League, and it is not unreasonable to expect that its Members, although each represents a state, should carry out their functions in a detached and impartial manner. For the Council also therefore equality in voting power will be the proper rule.

When we come to the Assembly, however, the position is entirely different. If the Assembly is to exercise effective legislative power and dominate international affairs by its actions and decisions, it is only right that the separate interests of all the various populations of the world should be represented upon it in such a way as to carry weight in some fair proportion to their relative magnitudes, just as in the Parliament of a national state the larger and more populous constituencies are commonly given a larger representation than the smaller ones, and thus obtain a larger share in the voting power. It is only reasonable to expect that in the Assembly, where every state can make its voice heard, the Members should be influenced largely by their separate national interests in their attitude to matters arising for decision, and it would be unfair if majority voting were to have the effect of allowing a large group of states representing together a comparatively small population to overrule the desires of a smaller number of states, representing a much larger combined population, by exercising a combined voting power wholly disproportionate to the relative populations.

It is sometimes maintained that population is not the only factor that ought to be considered and that in weighing the voting power for an international legislative body other factors such as wealth, trade, culture and historical traditions should be taken into consideration. It seems impossible, however, to evaluate such things on any logical and comparable basis, and the counting of heads stands out as the only method

of weighing the relative interests of states which admits of easy and reliable calculation, while at the same time reflecting the factor of difference between states which probably affords the most logical and defensible ground for differentiation of voting power.

To give a voting power to the Member States in the Assembly strictly proportional to their relative populations would probably be attaching excessive weight to population as an element of differentiation. It is therefore suggested that a middle course should be taken, and in the draft Covenant set out in the Appendix the basis proposed is that each state should have one vote, a state with population exceeding fifteen million should have a second vote, a state with population exceeding twenty-five million should have a third vote, and a state with population exceeding forty million should have a fourth vote. No special sacredness attaches to the particular scale thus proposed but it is thought that, when applied to all the existing states of the world, it would produce a balance in the Assembly reasonably calculated to safeguard every state against risk of injustice through a combination of either great or small states.

In judging the effect of this scale of voting it is important to remember that it is accompanied by the safeguard of requiring a special Resolution passed by a majority of three-fourths of the recorded votes for decision of certain particular matters by the Assembly. The purposes for which such a special Resolution is required under the appended draft Covenant are:

Under Article 5:

Appointment of additional permanent Members of the Council.

Increase or reduction of number of non-permanent Members of the Council.

Fixing of rules for election of non-permanent Members of the Council.

Under Article 17 (4):

Making of international laws on the recommendation of the Legislative Committee (subject to ratification by Member States entitled to exercise not less than three-fourths of the whole voting power in the Assembly).

Under Article 19 (5) (*e*):

Confirmation of a recommendation by the Equity Tribunal as to a dispute on a non-legal matter, so as to convert the recommendation into a binding order.

Under Articles 21 (4) and 17 (3):

Approval (subject to a code of regulations to be made under legislation to be proposed by the Council) of forms of sanction and of plans and arrangements of the Council with respect to sanctions.

Under Article 29:

Amendment of the Covenant (subject to ratification by Member States entitled to exercise not less than three-fourths of the whole voting power in the Assembly).

If the voting power in the Assembly is to be made dependent upon population in some such manner as above mentioned it will be necessary for the League to have reliable records of the populations of the several Members. With this object it is suggested that the Covenant should require each Member to take, on the same day in every fifth year, a census of all persons residing within its territorial boundaries as recognized by the League, including its Dominions, Colonies, Protectorates and Possessions not being themselves Members. Besides serving this essential purpose in relation to voting power in the Assembly, reliable information as to the extent and the variations from time to time of the populations of all countries would in many other ways form a useful addition to the world's knowledge. The census is provided for under Article 26 of the appended draft Covenant.

If the Assembly is to wield the larger powers now proposed it may be worth consideration whether an endeavour should not be made to render it more directly responsive to the public opinion of the countries represented in it. This might be done by requiring that the appointment of representatives on the Assembly should not be made on the sole responsibility of the Governments of the Member States, but in each case approval of the appointment should be required to be obtained from the parliamentary or other constitutional body most fully representing the people. While no actual proposal on this subject is put forward the matter is one that should be kept in view.

For affording assistance to the Assembly in the exercise of its purely legislative function—that is to say, in the making and amendment of international law—probably the creation of a new and special permanent organ of the League is desirable. It would be possible of course for this function to be performed by Committees appointed from time to time by the Assembly from among the representatives of the Member States of which it is composed. Or the function might be entrusted to expert Commissions specially constituted for the purpose from time to time, or to the Equity Tribunal whose creation has been recommended above. The latter course would have in its favour the fact that the functions of the Equity Tribunal with regard to non-legal disputes are themselves semi-legislative in character, and the persons appointed upon it would probably be persons suitably qualified to discharge the duty of advising the Assembly as to new legislation of a general character. Probably, however, it would be better to have a separate Legislative Commission, applying itself exclusively and permanently to this particular function, and composed of persons who would devote themselves to the work for long periods, as in the case of the judges in the Permanent Court. The field for international legislation is vast, and at present little explored. The need for uniform codes of law is great and in many directions urgent, and there is immediate and continuous scope for the labours of a body which would be the means of enabling the League to bring this anarchic world under the guidance of a clear and authoritative code of international law.

It is suggested that the Legislative Commission should be appointed in the same way as the Equity Tribunal but should be a larger body. Fifteen is proposed for this Commission and seven for the Tribunal.

VI

WORLD LAW

SOME matters of international conduct are of such character and importance that it seems desirable to regard the international laws for their regulation as fundamental, and find a place for them in the Covenant itself. By "fundamental" in this connection it is not intended to convey any idea of immutability, for it is of the very essence of the effective organization of peace that all laws and arrangements governing international relations should be capable of alteration by some orderly procedure and without undue difficulty. Settled law is a source of stability and confidence, but the existence of facilities for change of legal rights is the necessary preventative of violent and explosive revolt against the chains of obsolete or unjust law. The important thing is to give the world the means of change and adaptation and self-development by settled methods following reason and justice, and without the violent disturbance of war. It is proposed therefore that any provisions of the Covenant itself should be alterable in the same way and under the same safeguards as any law or code of law made by the League under its new general power of international legislation.

The first of these "fundamental" matters which it is proposed to deal with in the Covenant is the resort to war or the forcible invasion of or interference

with the territory or property of another state. Seeing that the appended draft Covenant proposes at the same time to set up suitable machinery for enabling any state which has, or thinks it has, a grievance to claim, through the organs and procedure of the League, redress for its grievance, whether this involves the enforcement of legal rights or the relief from injustice in existing law or legal right, there seems nothing unreasonable in the imposition upon all states of a complete prohibition of actual war and of all culpable invasion or seizure of the territory or property of other states. Completeness in the scheme of peaceful remedies and the machinery for their enforcement provides the justification for completeness in the description of the acts of violence and self-redress that come under ban. Nevertheless it is necessary to recognize that there may be some circumstances under which the exercise of force by an individual state will not be culpable. There is the obvious case of defence against unlawful aggression. Aggression may conceivably occur so suddenly that it may be impossible for any international agency for its prevention to be set in motion before its outbreak. Self-defence must therefore clearly be permissible. There is also the obvious case where, in conformity with the law of the League, the co-operative aid of the individual state is called for in the suppression of a disturbance of peace or breach of international obligations by another state. But this does not exhaust the category of exceptions, for the possibility must be envisaged that if one state should withhold the

property of another the execution of the legal process of redress may involve a re-entry upon property, resistance to which would involve not the entering but the resisting state in culpability.

In all cases of alleged breach of these prohibitions of war and trespass or other culpable international violence, it is suggested that the first step to be taken should be a complaint by the aggrieved party to the Council, which, as the executive authority of the League, should have the duty laid upon it of investigating the complaint, and, if it is justified, of first remonstrating with the offending state, and afterwards taking any remedial action that may prove necessary. But it is also suggested, as a reasonable safeguard against improper interference with the freedom of any state, and for ensuring an impartial review and weighing up of the circumstances, that the Council should have to bring the matter before the Permanent Court and to obtain a judicial declaration that a breach of the Covenant has been committed before applying any of the sanctions permitted by the Covenant for such a case, and that the Council should also have to obtain the approval of the Court to the particular form of sanction proposed to be applied.

The next of these fundamental laws concerns the group of matters described in Article 15 of the appended draft, which places all the Members under an obligation towards the League to refrain from or to perform certain classes of acts, and to afford information on international issues to the League and its tribunals and other organs, and makes the

Council the body to enforce these obligations on behalf of the League. Paragraph (1) is aimed against such unneighbourly acts as oppression and the stirring up of enmity and disorder. Paragraph (2) would restrain political, social, economic or other activities of an unfair character, and paragraph (3) requires that one Member shall afford to another reasonable facilities for the passage of persons and goods into, out of, and through its territories, and shall not impose unfair burdens on such passage. Under the Article the Council would be entitled to take up any of the matters referred to either on its own initiative or on complaint of any Member that a breach of the obligation had been committed. The remedy open to the Council would be to take action in the Permanent Court for enforcement of the obligation. Thus any Member of the League having a grievance against another Member on grounds of unfair treatment in trading or other economic matters would have lawful means provided for seeking a compulsory remedy. It would not have the right to claim treatment in any specific manner, but if it could persuade the Council that its case was one justly demanding a remedy it would be able to secure that the grievance should be enquired into by the Court, and relief sought from the Court against any proved unfairness of treatment. It is suggested that a flexible plan of this kind affords the wisest way of seeking to protect the Members against oppressive or unfair treatment of one by another, and that it should materially help towards eradicating the causes of war if the world could

establish a body of acknowledged principles of conduct, such as is contained in Article 15, and at the same time provide for itself the necessary machinery for ensuring that the principles shall not be a dead letter, but shall be actively enforced, and in a manner permitting of a liberal interpretation based on an examination of the actual facts of particular cases, and a growing experience of the results of the operation of the principles and of the difficulties their application may involve.

If it should be thought doubtful whether the Permanent Court is suitably equipped for forming a judgment as to whether in a particular case there has been a breach of any of the obligations of Article 15 it should be remembered that the Court, besides having special chambers with technical assessors, for labour cases and cases relating to transit and communications, has a general power, under Article 50 of its statute, to entrust any individual, body, bureau, commission, or other organization that it may select with the task of carrying out an enquiry, or giving an expert opinion.

Exactly the same method as has just been suggested for dealing with these fundamental matters of international conduct seems usefully applicable also to the treatment of those matters of internal national government which may become sources of war, and therefore call for some sort of international control. It is proposed that a minimum standard should be defined to which the internal government of every Member of the League must conform, and that the

failure to conform to this standard should be recognized as the breach of an international obligation which could be restrained by means of a complaint to the Court by the Council acting on behalf of the League. Besides contributing to the prevention of war by attacking such roots of war as lie in the internal misgovernment of states, this plan would have the advantage for the world in general that it would serve to define the circumstances, at present very vague, in which outside intervention is legally permissible in the internal affairs of a country against which allegations of misgovernment are made, and it would have the advantage for each country individually of assuring it of freedom from outside intervention grounded on any of the defined matters so long as it could satisfy the Court that its conduct did not contravene the minimum standard so prescribed.

In Article 16 of the appended draft Covenant it is sought to lay down this minimum standard in broad general terms, and here again it would be left for experience of the application of the principles in particular cases to lead in course of time to a more detailed explanation and definition of what the Article entails.

It is further suggested in Article 16 that (following the lead given in Article 22 of the existing Covenant in relation to the mandated territories, but extending it to other territories similarly inhabited) a further group of principles should be laid down as obligatory on all Members of the League in the government of colonial or other territories inhabited by backward native races.

Apart from the particular matters which are thus classed as fundamental and dealt with specifically in the provisions of the appended draft, it is suggested in Article 17 that the League should be endowed with a general power of making international laws. Such a power is desirable and important for various reasons.

It is required, first, in order to provide an effective means of reducing to order and uniformity the existing rules of international law, which are distinguished mainly by their vagueness and the wide differences between the views of the various Governments, writers, and professional exponents of the law as to what rules ought to prevail. The judgments and advisory opinions of the Permanent Court are gradually providing an authoritative exposition of the law, but the Court is not formally bound to follow its own precedents, and it would probably be centuries before a body of authoritative legal principles having any pretensions to completeness could emerge from the gradual evolution of case-law under the decisions of the Court. The League made a great effort by means of a Conference in 1930 to secure agreement among Governments upon a code of international law upon certain selected subjects. The subjects were nationality, territorial waters, and the responsibility of states for damage done in their territory to the persons or property of foreigners. They had been selected as ripe for international regulation, by a committee of experts which had been discussing the matter for some years. The Conference was attended by delegations from forty-seven states, including both Members and

non-Members of the League. It proved a failure, and this experience seems to illustrate well the desirability of investing the League with effective power to lay down in statutory or code form principles to be accepted universally as law.

Such a power is required also in order to enable the League gradually to develop working rules of a binding character to facilitate the carrying out of some of the purposes of the Covenant and to fill in details of some of its provisions. Take, for example, the difficult and important matter of Sanctions. It seems impossible at present to do more than lay down in very general terms the action that may be taken by the Council to enforce upon offending Members the obligations of the Covenant, and to regulate the steps to be taken by other Members by way of co-operation with the Council in the application of Sanctions. Probably, however, it will be possible and desirable, with time and experience, to lay down regulations in more detail, and a power of legislation will be needed to make them binding.

The legislative power is needed also, in reserve, for meeting possible demands, at present unforeseen and unforeseeable, for means of solving international disputes which may hereafter arise and may be difficult to settle without effecting some binding change of general international arrangements. Just as the power of legislation affords, in the modern democratic state, the great solvent of popular grievances and discontents and the great safeguard against revolution, so in the international sphere a power of world legislation

is required to ensure redress for national injustice and relief from national discontent, and thus to attack the causes and circumvent the outbreak of war.

A further important field for the exercise of legislative power is in order to facilitate or make possible the establishment and working of new international institutions and systems. Possible examples of such uses are given in paragraph (*c*) of Article 17 of the appended draft Covenant. Take by way of illustration the question of international money. It wants only some further time and further experience of trade depression and of the risk of competitive currency depreciation to drive home the fatuity of the present system of separate national currencies and varying international exchanges, and the necessity of providing some universal medium of exchange regulated intelligently under international organization. Modern conditions make such a provision imperative if the nations are to attain the better level of prosperity that is open to them. Besides the more obvious conveniences which a common system of money would afford to trade and travel, wise management of a world currency by a Central Bank under the supervisory control of the League would probably enable the general level of world prices to be kept reasonably stable, when there was no good ground for its being changed, and to be so kept without the drawback or with the minimum drawback of unstable exchanges. To set up the necessary organization and impose the necessary safeguards to enable a common money system to be worked would doubtless require a

legislative instrument—the international equivalent of an Act of Parliament.

In paragraph (*d*) of the same Article provision is made for including among the possible subjects of legislation the important matters of armaments and trade barriers, and also the giving of binding effect to conventions of the International Labour Organization, and, generally, the carrying out of the powers, functions, and work of the League or any of its organs or subsidiary bodies and the setting up of regional arrangements for those purposes.

Who can doubt that the world urgently needs power to protect itself by reasonable legislation against the evils and dangers of competition in armaments, tariffs, subsidies, quotas, and exchange restrictions?

By making such matters the possible subject of legislation the League will be able to deal with them effectively if it so decides in course of time and after adequate consideration, without being committed at the present stage either to dealing with them in any particular way, or even to dealing with them at all.

It is thought that the key to most of the problems of world peace and world organization lies not in the immediate search for direct solutions, but in the invention and construction of machinery that will enable solutions to be obtained, and will be accompanied by sufficient safeguards to ensure that the solutions will be just and well considered, and carry with them the convinced support of the great bulk of world opinion.

The cultural development of mankind is bringing

with it a growing antipathy towards the horrible methods of war. The provision of machinery for world legislation will enable mankind fruitfully to apply its increasingly cultured intelligence to the establishment of new methods of preventing and settling its conflicts of interest, opinion, and sentiment, without recourse to the methods that are becoming or have become distasteful.

The method of legislation proposed in Article 17 of the appended draft is that a proposal for the exercise of the legislative power should be made to the Assembly of the League by the Council or by a Member State. If the Assembly should decide to entertain the particular proposal it would refer it forthwith to the Legislative Commission for consideration, report, and recommendation. That Commission would thus become the organ for the process of investigation of the subject upon which legislation is proposed, and the feasibility and desirability of such legislation, and also for the process of preparing the necessary statute or instrument of legislation for consideration of the Assembly. In the carrying out of both processes it would of course have the assistance of the best means of information and the best expert knowledge the League could provide or secure.

The recommendations of the Legislative Commission would come before the Assembly, which would adopt or reject or amend any legislative instrument recommended, as it might think fit. For any such instrument to acquire the force of law it would have to be approved by a special resolution of the

Assembly, that is to say, a resolution passed by a majority of not less than three-fourths of the votes given, and it would have subsequently to be ratified by Members of the League entitled to exercise not less than three-fourths of the whole voting power of the Members in the Assembly.

When it is considered what would be the difficulties of getting a law through the mill of the Legislative Commission, and then what would be the difficulties of obtaining the necessary majority for it in the Assembly, and persuading States to ratify it in numbers sufficient to carry the necessary three-fourths vote under the proposed scale of voting based upon levels of population, it will be realized that any international law which might be made binding by the League under this new dispensation could only be one which had behind it a very strong pressure both of reasoned argument and of common world opinion. This evidence of a strong pressure of world opinion is needed in order to ensure that the laws enacted shall stand out as expressing the united will of the world, and that all nations may feel bound to support them.

If the League is thus to be made a fount of international law, contained partly in the Covenant and partly in laws specially made from time to time under an organized system, it seems only reasonable to implement the effective working of the system by requiring all Members of the League to bring their national laws into harmony with the body of international law thus promulgated. A similar harmony is required between national laws and the decisions

imposed by the League and by the Permanent Court in dealing with international disputes. These matters are dealt with in Article 18 of the appended draft.

One further matter remains to be mentioned in connection with the subject of legislation. In the world of today the lack of uniformity and harmony between the national laws of different countries is a constant source of difficulty in the dealings and relations between persons and bodies in such countries. One practical example of this difficulty is the differences between national laws governing the method of dealing with the estate of a bankrupt or deceased person who had property in different countries. Another example is the differences between the laws regulating the conditions upon which nationality is acquired, held, and lost. Endeavours have been made to establish principles for adjusting the effects of these Conflicts of Laws. The term "Private International Law" is commonly used to describe these principles, but the same vagueness and lack of agreement and definition characterizes this Private International Law as characterizes International Law properly so called. It is suggested that the laying down of a uniform and authoritative body of rules for adjustment of the effects of differences between the national laws of different countries may very properly be dealt with as a subject for legislation by the League, and Article 17 (5) (*b*) of the appended draft accordingly puts such rules into the category of International Law for this purpose.

It is further suggested that the encouragement of

a greater uniformity between the national laws of different countries is a matter which might well be allocated as one of the recognized functions of the League. In many branches of law the successful exercise of that function is calculated to produce highly beneficial results.

In modern times an admirable work has been done by the Society of Comparative Legislation in this country, and by parallel institutions in some other countries, in collating and comparing the national laws of different countries, and stimulating in one way and another a movement in favour of the reduction of conflicts and disparities in existing law and the promotion of uniformity in new law. The establishment at Rome in September 1924, by the Italian Government, of the International Institute for the Unification of Private Law and the founding, also in September 1924, of the International Academy of Comparative Law are further developments of this movement. The work of collation and comparison which such agencies perform enables a country to derive useful lessons from the legislative activities of other countries even in regard to branches of law where uniformity may not be essential or especially valuable.

The importance of this work of comparative legislation is so great that its promotion ought not any longer to be left to the efforts of societies and institutes in certain countries, but should be accepted as one of the co-operative tasks of all the Governments of the world, and placed expressly within the sphere of action

of the League of Nations. A provision for this purpose is included in Article 18 of the appended draft Covenant.

There are two difficulties of a major character that must face any authority or body discharging this task. One is the difficulty of obtaining and rendering accessible and capable of comprehension and comparison the infinite mass of national laws existing and continually being evolved in all quarters of the globe. The other is the difficulty of appreciating and reconciling or making suitable allowance for the differences of legal terminology current in the various countries.

The League of Nations ought certainly to be in a far better position than any minor body to grapple effectively with the former difficulty. As regards the latter difficulty the League would be affected in the same way as any minor body by the differences of legal terminology. It could, however, if it would, seek to lighten the difficulty by action in another direction, which would probably confer a greater benefit on mankind, not only in regard to comparative legislation, but in regard to all other subjects of international co-operation, than almost any other single function it could undertake. The League might, that is to say, seek to establish throughout the world the use of a single auxiliary language as the common medium for exchange of ideas between people of different countries and races. Misunderstanding is a fertile source of trouble not only in comparing different systems of law, but in dealing with all the political, economic, and other questions that arise

between nations. If the League could only succeed in quickly surmounting the difficulty of the choice of the particular language, be it English, French, or any other, which is to serve the universal need, it would be taking a step of immeasurable hopefulness for the promotion of international understanding and peace, as well as facilitating the task of securing uniformity in the laws of the various countries of the world.

In sub-paragraph (*c*) of paragraph (5) of Article 17 of the appended draft Covenant, provision for arrangements with respect to the institution of a common auxiliary language has been included as one of the possible subjects of international legislation, so that at any rate the means shall not be lacking by which any necessary official action in connection with the introduction and use of such a language could be arranged for.

VII

DISPUTES

THE compulsory settlement, under the impartial auspices of the League, of all international disputes for which no agreed settlement is otherwise obtainable seems a logical accompaniment of the investing of the League with legislative power, and is the essential condition of a complete prohibition of war and forcible trespass. The authority that prohibits any aggrieved nation from seeking to redress its grievance by its own action cannot reasonably refrain from taking the responsibility of guaranteeing that justice shall be done, and itself intervening and providing a solution of the trouble if mutual agreement between the parties cannot be secured. Unless this avenue of escape from grievances and injustices is provided the prohibition of attempts at self-redress is likely to prove unsuccessful and there will in the end come a violent revolt against the shackles of the League.

The range of operation of the causes of war cannot be limited, nor is there any limit to the area over which war, once occurring, may spread. For particular Governments, therefore, to tie their hands in vital matters affecting war and peace involves elements of special difficulty and danger when other Governments, with which they may become associated and entangled in all manner of unforeseen ways, remain free.

If the obligations leave any loophole for war there

will necessarily be anxiety as to preparedness for war, and consequent difficulty in accepting limitations upon the pursuit of national policies, and in undertaking obligations to pursue peaceful methods and submit to impartial decisions, for it is impossible to anticipate what effect a future decision in some unforeseen dispute may have upon the ability of a country to wage a great war. The whole aspect of the problem changes, however, if war in the old sense can be ruled out of the picture in such a way as to remove all justification for its occurrence under any circumstances and between any nations, and to confine the use of force by nation against nation to police action for putting combined pressure upon nations rebelling against the common bond.

If the obligations do not require all nations to submit their disputes to compulsory settlement by specified procedure in the last resort an aggrieved nation will have no assurance of getting its grievance redressed by peaceful means, and will therefore be reluctant to submit to a complete exclusion of the alternative of war.

The compulsory procedure for settlement must extend to all classes of dispute which otherwise would find an outlet in war, since it would be futile, for example, to prohibit war on the strength of having provided compulsory means of redress in the case of legal disputes, while giving no assurance of peaceful redress in the case of non-legal or political disputes, which are those most likely to lead to war. Nor is it a practical course, if war is to be prohibited, to make

no provision for dealing with disputes arising out of matters of domestic jurisdiction, which are quite capable of giving rise to war.

The revision of treaties is a matter much in the public mind at the present time and a possible subject for international disputes of a non-legal character. The European atmosphere is dangerously charged with allegations of injustice involved in or resulting from the peace settlement at the end of the Great War, and at any time acute disputes might arise over claims for revision of some of the treaty provisions. Many people think that revision ought to be undertaken, and that the absence of it is a source of unrest and an obstacle to disarmament. Others think revision too difficult and dangerous a task to enter upon, and fear that it might create more discontent than it would cure. The reasonable course seems, as usual, to be the middle one of not entering upon any general process of revision, but establishing a procedure under which at any time a party to one of the treaties can, as of right, put forward a claim for revision if it is prepared to accept the onus of proving before an impartial League tribunal, and also satisfying a large majority of the Assembly, that the claim is a just one and ought to be allowed.

No large change from the present provisions of the Covenant seems necessary in regard to the early stages of the procedure with regard to disputes. It is appropriate for the Council, as the executive organ of the League, to undertake the function of making preliminary enquiries into the dispute, and using

conciliatory efforts with a view to effecting a settlement by agreement. But if these preliminary efforts prove unsuccessful, and the League has to face the task of imposing a settlement, then it is submitted that the procedure ought to provide for a judicial or semi-judicial enquiry of a more formal and formidable character into the facts of the dispute and the contentions of the respective parties by a tribunal applying itself exclusively to work of this kind, and specially chosen for that purpose, and not engaged in the general work of an executive and administrative body. A broad distinction at this stage seems clearly appropriate between the treatment of disputes of a purely legal character and that accorded to disputes which raise issues of a political rather than a legal nature, and are not susceptible of decision on the basis of the application of existing law.

For the final decision of a purely legal dispute a judicial tribunal is appropriate. In order to pass judgment on the dispute it is necessary only to ascertain the true facts of the case, and to ascertain truly the rules of law applicable to the case, and then to apply the law to the facts and frame the conclusion in a suitable judgment. For that purpose a tribunal of trained lawyers is required, chosen on grounds of competence and impartiality, and following a recognized course of procedure which gives full opportunity for submission of the contentions of the disputants, and functioning in the light of public criticism. Such a tribunal exists in the Permanent Court, and it is accordingly proposed in the appended draft Covenant

that the Council should be required to refer legal disputes to that Court for final judgment. For this purpose the definition adopted for legal disputes is the same as that used in Article 13 of the present Covenant and Article 36 of the Statute of the Court, and set out above in the chapter on "Existing Constitution of the League and its Associated Organizations." It classes such disputes under four headings (see p. 35).

If the dispute relates to a non-legal matter it requires different treatment, because a decision upon it will presumably involve not the application of existing law, but the departure from it, and an overruling of the legal rights or obligations previously prevailing between the disputants. The function therefore involves the making rather than the application of law, and the ultimate decision is appropriately arrived at under the authority of a legislative body. Seeing, however, that the law to be made is not one for general and future operation, but is one for meeting the particular circumstances of the disputant parties and for adjusting or re-adjusting their present relationships, it is desirable that before the legislative body applies its mind to the subject the facts and circumstances of the particular case should be reviewed by an impartial tribunal in a manner very similar to that which would be followed by the Court, including the hearing of the parties concerned, and that the ultimate decision, although not resting solely on the conclusions of this tribunal, but requiring confirmation by the legislative body, should carry with it the authority of the impartial tribunal which has conducted this

semi-judicial enquiry. Experience has led to the evolution of a parallel procedure for dealing with national matters of a corresponding kind in this country. By the method of Private Bill procedure, which includes a semi-judicial enquiry and hearing before an impartial parliamentary committee, as well as the passing of the Bill by the two Houses of Parliament, new and special legal powers are granted, or existing legal rights, powers, and obligations are changed, and large issues and disputes are settled between local or public authorities, companies, individuals, and bodies of one kind and another. Matters of very diverse types are dealt with under this procedure, including, for example, such things as the transfer of territory from a county to a county borough, the grant to a railway company of compulsory running powers over the line of another company, the compulsory expropriation of the owners of land required by a public gas company for the construction of a gasworks, and the raising of the tariff of dues which a harbour authority is entitled to charge.

This combination of legislative and semi-judicial processes meets a definite need in the government and development of national affairs. The settlement of international disputes of a non-legal character opens up a parallel need which can conveniently be satisfied by procedure of a somewhat similar kind.

The reservation of the ultimate power of decision to the Assembly is desirable, not only for the purpose of giving to the decision the authority of the representative body exercising powers of legislation, but

also for securing breadth of outlook through a great admixture of detached and disinterested opinion. This would be particularly advantageous in any case where a political dispute on some big issue ranged on opposite sides two powerful groups of interested nations.

Following out these ideas the appended draft Covenant provides that the Council shall refer non-legal disputes to the Equity Tribunal (mentioned already at p. 65 in the chapter on "Constitutional Changes") for impartial inquiry, report, and recommendation. Any recommendation of the Tribunal will become an order binding on the parties to the dispute if, but only if, it is confirmed by a special resolution of the Assembly.

It is proposed that the Equity Tribunal should have power to visit disputants appearing before it with payment of costs of other parties. This should be a deterrent against the pressing of unreasonable claims.

With regard to disputes arising out of matters solely within the domestic jurisdiction of a particular state, Article 15 of the Covenant now provides, as previously mentioned, that they shall be excluded from the scope of the jurisdiction given to the Council and Assembly under that Article. Such disputes may be a source of war, and it seems unreasonable and undesirable to leave them without means of compulsory settlement if war is to be entirely prohibited and the prohibition is to be effective. The provision proposed in Article 16 of the appended draft Covenant for imposing a minimum standard of good internal government upon

the Members of the League should go a long way towards removing this difficulty, because it would probably bring into the category of breaches of international obligation most acts of internal government that would be likely to give rise to war. It has therefore been thought sufficient to leave a discretion to the Equity Tribunal and provide that it should make no recommendation as to any matter which in its opinion involves no right, obligation, duty, interest, status, or conduct of a Member in relation to another Member or persons under the jurisdiction of another Member, or in relation to the League, and ought therefore to be treated as a matter solely for domestic jurisdiction.

It has been thought that some provision ought to be made with a view to preventing any conduct by the disputants, after submission of a dispute to the League, which might tend to aggravate the dispute or to prejudice the position of either party. Accordingly a provision has been inserted to the effect that after such submission the parties shall abstain from any sort of action which may aggravate or extend the dispute, and the Council, before reference of the dispute to the Equity Tribunal, and that Tribunal, after such reference, may indicate to the parties any provisional measures which ought to be taken to reserve the respective rights of either party. The latter part of this provision follows the lines of Article 41 of the Statute of the Permanent Court.

VIII

SANCTIONS

WE now approach the difficult question of the sanctions or penalties to be imposed in order to prevent the continuance of any breaches of the obligations resting upon states under the new international system proposed.

The first thing to emphasize is that the system contemplates that all countries shall be Members of the League and share its privileges, duties and responsibilities, and contemplates also that an effective power of altering the Covenant and making international law shall be vested in the Members, and this power will be available for altering and developing any initial arrangements that may be made with regard to sanctions. Whatever provisions are made on this subject ought to be looked upon as tentative and experimental, and the power of legislation is a vital safeguard against error or inadequacy in any such provisions. The world has to learn by experience how best to thread its way through the difficult but unavoidable complexities of international organization. So long as no institution or process set up is unalterable and the whole system is capable of growth and adaptation from time to time under an inherent power of legislative change the difficulties involved even in such a matter as sanctions can be courageously faced and the methods and obligations can be accepted which now appear wisest,

whatever verdict experience may hereafter pass upon them.

The next thing to be remarked is that the sanctions available need to be of widely different degrees of stringency. To meet a definite resort to war by any state the world needs to be armed with a power which, whether it be in the form of a police force under the direct control of the League or contributed by the Member States, or in the form of an economic boycott such as Article 16 of the present Covenant contemplates, or in any other form, will be overwhelming in its force, and so organized as to bring the offending state to obedience unerringly and in the shortest possible space of time. On the other hand there may occur many cases of disobedience to a judgment or decision or international obligation where the League may require to threaten or use compulsion but where a remedy anywhere approaching those just mentioned in scale or stringency would be hopelessly out of place.

It is probable also that under any carefully organized system of sanctions the pressure put upon the offending state would generally be a graded one. Some very moderate form of pressure would at first be applied and only if and when that proved unavailing would further measures, perhaps of gradually increasing stringency, be taken.

Moreover the type of pressure suitable and likely to prove successful may vary greatly according to the circumstances of the country to which it has to be applied. A naval demonstration might be the quickest,

simplest and most effective form of pressure in one case, but quite useless in another. An economic boycott might in one case be immediate and deadly in its effects, while in another case it might cause comparatively little immediate or even subsequent trouble to the country to which it was applied, although perhaps very inconvenient and injurious to some of the countries joining in its application.

It seems to follow that a wide discretion ought to be entrusted to some authority within the League as to the choice of the sanction to be applied in any particular case and as to the method of its application.

Because, also, of the seriousness and possible danger and cost of entering upon the process of applying sanctions there ought, before their application, to be clear proof given that the occasion for it has arisen. When pressure is once decided upon it ought to be used without hesitation or intermission. But persuasion, conciliation and agreement are always better weapons than compulsion where they can be used successfully, and it is desirable to endeavour to make sure beforehand that second thoughts will not be likely to lead to regret that the pressure was begun.

It is suggested in the appended draft Covenant that there should be no application of sanctions except after a declaration has been made by the Permanent Court, on the application of the Council, that the Member against whom they are to be put in force has committed a breach either of the provision of the Covenant prohibiting war and forcible trespass, or of the obligation to submit disputes to the Council and

to carry out judgments of the Permanent Court and binding orders of the Equity Tribunal, or of the provisions of the Covenant as to the general conduct of Members one towards another, the guarantees for internal order and good government, or the control of colonies, mandated territories etc., or any obligation under international law affecting the interests of the League generally. This provision would both interpose a safeguard against precipitate action, ensure a judicial determination that the occasion for applying sanctions had legally arisen, and put the Council definitely into the position of the proper complainant on behalf of the League where there has been disobedience to the decisions of the League tribunals, the fundamental obligations imposed by the Covenant, or legal obligations affecting the League as a whole.

In order to ensure that the sanctions applied shall in each case be suitable it is proposed that the onus shall rest upon the Council of obtaining the approval of the Permanent Court to the measures proposed to be taken. Subject to this it would be left to the Council in its discretion to adopt such of the measures to be authorized by the draft Covenant as may be deemed appropriate in the circumstances of the particular case. It will be remembered that under Part XIII of the Versailles Treaty, which deals with the International Labour Organization, the question what remedies of an economic character may appropriately be put in force against a Government that has failed to secure the effective observance of a Labour Convention may be referred to the Permanent Court, as

well as the question whether a Government has failed to secure such observance (see p. 43).

In the appended draft Covenant no attempt has been made to prescribe expressly and in detail the methods to be adopted by the Council in carrying out the measures thus decided upon, or the nature of the co-operative action to be taken by the Members generally in support of such measures, or the plans to be arranged or the forces to be organized by the Council in anticipation of the need for applying sanctions. It has been thought that these matters can better be left to be gradually worked out and laid down, so far as necessary, in a code of regulations to be prepared and recommended by the Council for embodiment in an international law. In the meantime it has been thought sufficient to direct that the measures may take the form of financial pressure, the pressure of an economic boycott, police pressure by land, sea or air forces, or any other form of pressure which may be sanctioned by special resolution of the Assembly, and that the Council may with the approval of such a resolution prepare any plans, make any arrangements, and establish and maintain any forces likely to be required for such measures, and to provide in general terms that the Members shall co-operate loyally and effectively with the Council and each other for assisting any measures taken by the Council. It is also provided that any costs incurred by the Council in giving effect to the provisions as to sanctions shall be paid as part of the expenses of the League, but the Court may order their repayment to the League by any Member to whose breach of the Covenant they are due.

IX

THE REAL THING

FOR every country in the world it will pay to accept the liabilities and the restrictions upon freedom and national sovereignty involved in the system provided for under the appended draft Covenant, for it will gain in return "the real thing," that is to say, a real insurance against war, a real security for the redress of grievances on lines of justice, a real reign of law in the world, and a real pecuniary gain in the reduction of armament expenditure and the increase of trade and economic prosperity which the resulting stability and confidence will render possible. If all nations can but be persuaded to take their appropriate share in this common enterprise of world co-operation and organization the day of fruitless conferences and illusory compromises will be over, and the day of international decision and action will have come.

What real drawbacks are there to set off against the prospect thus held out of the reign of law in a warless world?

Some may be tempted to think the new system will be a useful safeguard for the little countries but no advantage and a burdensome inconvenience to the Great Powers. But take Great Britain as an illustration. What will be the measure of the advantage to Great Britain if she can be freed from the fear of renewed war on the continent of Europe; if she can obtain a

binding settlement of such problems as the Manchurian question, legally imposed by a large majority of the League Assembly, on the recommendation of a permanent League tribunal, and backed by the organized will and power of the world; and if the main part of her expenditure upon armaments can be rendered superfluous?

What need would Great Britain have to fear injustice in any decisions the League might impose in matters where her interests were specially affected? Is any country better able to defend its just interests by argument in the Assembly or Council of the League, or before any League Court or Tribunal?

Is there any reason why Great Britain should, or any likelihood that she would, profit less under the proposed system by the influence she wields and the respect in which she is held than she does under the international arrangements of today? Has she not as much to gain as any other country out of any likely restriction by compulsory international regulation upon the freedom and activities of economic nationalism and the international barriers it erects? Is there any doubt that the fruits she hopes for and seeks from increase of trading and economic co-operation throughout the British Commonwealth would be greater still if the co-operation could be extended throughout the world? Is there any country more at risk of injury through war breaking out in any part of the world and the absence of effective means for guarding the world against such outbreaks?

The mere mention of these matters is sufficient to

show that if the world really will set up such a system and establish by majority power, under the safeguards provided, rules for the orderly and uniform regulation of its common affairs, no result can possibly emerge for either this or any other country except an immense increase in prosperity, security, and happiness, combined with the knowledge that it is not gained at the expense of any other nation, but flows naturally from the substitution of an intelligent and orderly regulation of the world's affairs in place of the present stupid confusion of mutually destructive activities lacking the control of reason and justice.

No longer would it be necessary to suffer the disgrace of interminable world conferences ending in futility. Measures for the control of impediments to world trade and the menace of excessive armaments could be taken in the ordinary stride of the world organization and dealt with effectively by legislation under the regular procedure of the League's Legislative Commission and decisions of the Assembly ratified by the necessary majority of the Member States. No doubt there would be plenty of discussion and controversy over subjects of such importance, but it would be more concentrated and practical and conducted under a far greater sense of care and responsibility when it was known that it would not end merely in talk but in binding decision. What commonsense business man could think this other than a great gain? And how can any commonsense business man think the present arrangement reasonable, under which the nations send their representatives together from all

parts of the world to carry out a great public work without first setting up the plant and tackle necessary for executing the job?

No longer need the stability of European peace be undermined by grumblings and manœuvres over the revision of treaties. There would be an open challenge to the discontented to state their case. A Tribunal of Equity is provided and always open to you. It will give you a full and impartial hearing. If you have a grievance which you think justly demands redress lay it before the Tribunal and take the risk of its decision. If the decision is in your favour the machinery for giving binding effect to it is there. If you will not follow this allotted and reasonable procedure then you have no excuse for unrest and no right to grumble.

No longer need the harassed statesman of a Great Power pick his gingerly way through a morass of diplomatic intrigue in the endeavour to circumvent aggressive tendencies on the part of some pushing and grasping country, while at the same time trying to keep his own country out of the risk of embroilment in war and out of the toils of other people's quarrels. He would cast his burden upon the League with the confidence that it was no longer a body filled with good intentions but impotent to help if its conciliatory offices should be unavailing. He would know that it had a real power of restraining violent aggression and imposing its own impartial will and decision upon the devotees of rival and inconsistent policies, and a real power and duty of guarding all nations alike against any breaches of the common peace.

No longer would a selfish political or economic nationalism be fostered and encouraged, since the necessity of sharing continuously in the responsibility for the common policy and the acts and decisions of the League would inevitably force the leaders and people of all the Member States to look to the common interest far more than they do today, and would teach them the truth that the welfare of their respective countries can best be promoted through the common welfare of the world.

No longer would the individual suffer from the inconveniences and anxieties that the present international chaos brings upon him. His daily life and avocations need the protection of law and government in the international field as much as in the national. Under the new system he would get this protection, and it would matter far less to him than it does today on which side of a frontier he might reside or have his property or interests.

The nations are already united in bonds of interest. Why should they fear to become united by bonds of organization? They may differ widely among themselves in their ideologies, but they have great common interests to unite them, including the interest of peace. No timid shrinking from the scale and proportions of the task to be undertaken ought to deter them from this enterprise. After all, the size and diversity of the proposed organization need not terrify them when they think of the organizations which human personalities successfully conduct today. Even a Switzerland, with its diverse nationalities, affords no mean education

for the practice of international government on a larger scale. To organize and govern the United States of America presents problems not only of a diversity but also of a scale which must carry the mind far along the way towards knowledge of how to deal with the problems that come into the picture when the world itself is to be treated as a unit of co-operative organization. And, again, take the British Commonwealth and think what it means. The extent and the infinite variety of the territories and human groups of which it is composed. The distances by which they are separated one from another. The difficulties of mutual understanding and tolerance and the risks of conflicting interest that have to be met and surmounted. Surely those who have before them the example of this Commonwealth and realize how its harmonious relationship is maintained from day to day and from year to year and has stood the strain even of such demands for an arduous co-operation as the Great War placed upon it, need not quake at the prospect of maintaining a universal association for guaranteeing peace and justice, with all states of the world within the scope of its conciliatory influence, and none lying outside to offer competing attractions or create discordant or distracting interests.

If there should be any fears that the proposed changes would convert the League into a federation or super-state they can be laid aside. A federation implies that the individuals within the federal territories stand in the direct relation of subjects to the common federal Government, which acts on their behalf in

international matters to the exclusion of the Governments of the separate states comprising the federation. No such relationship would be set up under these changes, and the League would continue to be, as it is now, a society of independent states, each exercising sovereignty within its own territories subject to the limitations and responsibilities necessary to secure the common peace, the common welfare, and the reasonable freedom of all the states that are members of the society.

Let no one say that the proposed changes are impossible. What is there in this world that is impossible of achievement if you try hard enough to bring it about?

In recent times a movement has been growing in this country in favour of the idea of the establishment of an international police force and provision at the same time for the settlement of all international disputes by tribunals of law and equity. It has been maintained that this supplies the key to the disarmament problem. The appended draft Covenant provides for such tribunals and for the settlement of all international disputes. It does not make obligatory the immediate establishment of an international police force, but it does better, for it provides legislative machinery under which not only could such a force be set up and all necessary provision be made for its practical working, but provision could also be made for the establishment and working of other forms of sanction as alternatives to the exercise of police power, and it puts an obligation on the Council of the League

to face the question of sanctions and prepare and submit for international legislation a code of regulations to deal with it. The control of armaments and the institution of sanctions would no longer be insoluble problems or matters merely of pious aspiration, because there would be effective legislative power to bring them about.

This draft Covenant provides a constitution for the world, and the statesmen of all the countries of the world might meet tomorrow at Geneva, Washington, London or Paris to adopt it. True it would give large powers to a universal League of Nations, but the powers are so safeguarded that rash or ill-considered or imprudent action is the last thing to be anticipated from their exercise. Would it not be worth while, and has not the time arrived, for all countries to set aside minor tasks and dismiss mutual jealousies and hostilities and sit down together to the constructive work of building up the world constitution, and thereby fortifying more strongly the frail edifice of peace? Some country must take the lead in such matters. Why not Great Britain?

How are the other countries to be induced to join in the task?

The knowledge that war somewhere or everywhere sooner or later is the alternative to the real organization of peace ought to be a sufficient inducement. The recollection of the horrors of the Great War cannot have faded from the minds of those who were old enough to realize its tragedy. The evidences of its disastrous economic consequences are all around us

and sufficiently obvious and unpleasant today. Submission to the risks and benefits of a system of law and justice administered by external authority is surely better than submission to the unrelieved risks and horrors of modern war.

Do the people of today really want to prevent future war and its consequences? Or do they prefer to drift back into the old ruts of alliances, diplomatic manœuvrings and competitive armaments? Do they wish to be real world citizens and influence and control international relations to good purpose? Or do they love better the little, narrow, national, and selfish grooves of old?

If they choose to pursue the path towards peace and the world's common good they must be prepared to pay the price by conscientious effort and real determination to discover and adopt the wisest arrangements for a true international government. In the hope that they will choose this better path and accept the labours that it entails the author dedicates to them the draft Covenant that follows.

APPENDIX

THE DRAFT OF A REVISED COVENANT

FOR THE

LEAGUE OF NATIONS

CONTENTS

Article

ARTICLE I

THE OBJECTS OF THE LEAGUE

The League of Nations (in this Covenant called "the League") is an association of fully self-governing States, Dominions and Colonies for the following objects:

The maintenance of international peace;

The removal of the causes of war;

The development and enforcement of international law;

The settlement of international disputes;

The promotion of the common welfare and interests of the world; and

The attainment by international co-operation of any other purposes specified in this Covenant.

ARTICLE 2

MEMBERSHIP

(1) The Members of the League (in this Covenant called "Members") shall be:

(*a*) The States mentioned in Part I of the Annex to this Covenant so long as they are recognized as fully self-governing;

(*b*) The Dominions and Colonies mentioned in Part II of the said Annex so long as they are recognized as fully self-governing;

(*c*) All other States, Dominions, and Colonies which, being recognized for the time being as fully self-governing, shall have acceded without reservation to this Covenant.

(2) The power and duty of recognizing from time to time what States, Dominions, and Colonies are fully self-governing, and what are their respective governments and territorial boundaries, is vested in the Council of the League, and such recognition by the Council shall bind all the Members. Provided that any dispute as to the territorial boundaries of any Member which may at any time arise between that Member on the one hand and either the Council or any other Member on the other hand shall be determined in the manner provided by Article 19 of this Covenant.

ARTICLE 3

EXERCISE OF POWERS

(1) The action of the League under this Covenant shall be effected through the Assembly and the Council of the League.

(2) Any powers of the League if expressly conferred

on the Assembly are exercisable by the Assembly alone; if expressly conferred on the Council are exerciseable by the Council subject to control by the Assembly; and if not expressly conferred on the Assembly or the Council may be exercised by the Assembly alone or by the Council subject to control by the Assembly.

ARTICLE 4

THE ASSEMBLY

(1) The Assembly consists of Members present through representatives at meetings of the Assembly.

(2) The Assembly shall meet on the first Monday in September in every year and at any other times when directed by the Assembly or required by requisition of not less than ten Members. All meetings of the Assembly shall be held at the seat of the League unless otherwise directed by the Assembly.

(3) At every meeting of the Assembly each Member may have not more than three representatives and shall have one vote, and also a second vote if the population within its recognized territorial boundaries (including its Dominions, Colonies, Possessions, and Protectorates not being themselves Members) according to the last preceding census

registered with the secretariat of the League in pursuance of Article 26 of this Covenant exceeds fifteen million, a third vote if such population exceeds twenty-five million, and a fourth vote if such population exceeds forty million.

(4) Every meeting of the Assembly shall at its first sitting appoint a President and a Vice-President of the Assembly, each of whom shall hold office until his successor is appointed. At every sitting of the Assembly the President or in his absence the Vice-President or, in the absence of both, a person appointed by the meeting shall act as Chairman.

(5) The Assembly acts by a majority of the votes given on any resolution at a meeting of the Assembly except where under this Covenant a particular majority is expressly required. In the event of an equality of votes the Chairman shall have a casting vote.

(6) In this Covenant the expression "special resolution" when used in reference to the Assembly means a resolution passed at a meeting of the Assembly by a majority of not less than three-fourths of the votes given on the resolution.

(7) Except as otherwise provided in this Covenant all matters of procedure at meetings of the Assembly, including the appointment of committees to investigate particular matters, shall be regulated by the Assembly.

APPENDIX

ARTICLE 5

THE COUNCIL

(1) The Council consists of the following Members present through representatives at meetings of the Council, namely:

(*a*) The British Empire, France, Italy, Japan, and Germany, which shall be permanent Members of the Council, and

(*b*) Nine Members to be selected by the Assembly from time to time in its discretion, which shall be non-permanent Members of the Council.

The Assembly may by special resolution appoint as additional permanent Members of the Council any other Members willing to accept such appointment, and may by special resolution increase or reduce the number of non-permanent Members of the Council to be selected by the Assembly. The Assembly shall fix by special resolution rules dealing with the election of non-permanent Members of the Council, and particularly rules to regulate their term of office and conditions of re-eligibility.

(2) Any Member not being a Member of the Council shall be invited to sit as a Member and be represented for that purpose at any meeting of the Council during the consideration of matters specially affecting the interests of that Member.

(3) The Council shall meet from time to time as occasion may require and at least four times a year. All meetings of the Council shall be held at the seat of the League unless otherwise directed by the Council.

(4) At every meeting of the Council each Member of the Council shall have one vote and may have not more than one representative.

(5) The Council acts by a majority of the votes given on any resolution at a meeting of the Council except where under this Covenant a particular majority is expressly required. In the event of an equality of votes the Chairman of the meeting shall have a casting vote.

(6) In this Covenant the expression "special resolution" when used in reference to the Council means a resolution passed at a meeting of the Council by a majority of not less than two-thirds of the votes given on the resolution.

(7) Except as otherwise provided in this Covenant and subject to control by the Assembly all matters of procedure at meetings of the Council, including the appointment of a chairman of the Council or of any meeting of the Council and the appointment of committees to investigate particular matters, shall be regulated by the Council.

APPENDIX

ARTICLE 6

THE PERMANENT COURT OF INTERNATIONAL JUSTICE

(1) The League shall maintain and keep established and bear the expenses of the Permanent Court of International Justice (in this Covenant called "the Court") in pursuance of the provisions of the Statute of the Court, and the Assembly and the Council shall respectively take all necessary steps from time to time for election of the judges and deputy-judges of the Court.

(2) Either the Council or the Assembly may at any time refer any question to the Court for an advisory opinion.

ARTICLE 7

THE TRIBUNAL OF INTERNATIONAL EQUITY

(1) The League shall from time to time appoint and keep appointed a body to be called the Tribunal of International Equity (in this Covenant called "the Equity Tribunal").

(2) The Equity Tribunal shall consist of seven Commissioners. They shall be persons who, by their personal character and experience, appear to furnish the highest guarantees of competence and

impartiality. They shall be elected in the same manner and for the same period as apply for the time being to the election of the Judges of the Court under the Statute of the Court but from a list of persons nominated by the Members for this purpose. Each Member may nominate not more than four persons for such list. The nomination of each person shall hold good only until the end of the year in which it is made and may be cancelled at any time by the nominating Member or by the person nominated. The remuneration of the Commissioners shall be determined by the Council and such remuneration and the expenses of the Tribunal shall be paid as part of the expenses of the League.

(3) The Equity Tribunal shall act by a majority of the Commissioners present at a meeting of the Tribunal. In the event of an equality of votes the Chairman of the meeting shall have a casting vote.

(4) The Commissioners, when engaged upon the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

(5) Subject to the provisions of this Covenant the Assembly may make rules to regulate the procedure of the Equity Tribunal either generally or for the purposes of a particular case, or proceeding. Subject to the provisions of this Covenant and to any rules so made the Tribunal shall settle its own procedure.

APPENDIX

ARTICLE 8

THE COMMISSION FOR INTERNATIONAL LEGISLATION

(1) The League shall from time to time appoint and keep appointed a body to be called the Commission for International Legislation (in this Covenant called "the Legislative Commission").

(2) The Legislative Commission shall consist of fifteen Commissioners. They shall be persons who, by their nationality, personal character, and experience, appear to furnish the highest guarantees of competence and impartiality. They shall be elected in the same manner and for the same period as apply for the time being to the election of the Judges of the Court under the Statute of the Court but from a list of persons nominated by the Members for this purpose. Each Member may nominate not more than four persons for such list. The nomination of each person shall hold good only until the end of the year in which it is made and may be cancelled at any time by the nominating Member or the person nominated. The remuneration of the Commissioners shall be determined by the Council and such remuneration and the expenses of the Commission shall be paid as part of the expenses of the League.

(3) The Legislative Commission shall act by a majority of the Commissioners present at a meeting of the

Commission. In the event of an equality of votes the Chairman of the meeting shall have a casting vote.

(4) The Commissioners, when engaged on the business of the Commission, shall enjoy diplomatic privileges and immunities.

(5) Subject to the provisions of this Covenant the Assembly may make rules to regulate the procedure of the Legislative Commission either generally or for the purposes of any particular business. Subject to the provisions of this Covenant and to any rules so made the Legislative Commission shall settle its own procedure.

ARTICLE 9

THE SECRETARIAT

(1) The League shall have a permanent Secretariat, which shall be established at the seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required.

(2) The Secretary-General on the coming into operation of this Covenant is the person named in Part III of the Annex to this Covenant. His successors shall be appointed by the Council with the approval of the Assembly.

(3) The secretaries and staff shall be appointed by the

Secretary-General with the approval of the Council.

(4) The Secretary-General shall act in that capacity at all meetings of the Assembly and of the Council.

ARTICLE 10

SEAT, QUALIFICATIONS AND IMMUNITIES

(1) The seat of the League is established at Geneva. The Council may at any time by special resolution decide that the seat of the League shall be established elsewhere.

(2) All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

(3) Representatives of the Members when engaged on the business of the League and officials of the League, when so engaged, shall enjoy diplomatic privileges and immunities.

(4) The buildings and other property occupied by the League or its officials or by the representatives attending its meetings shall be inviolable.

ARTICLE 11

EXPENSES

The expenses of the League shall be borne by the Members in the proportion decided by the Assembly.

ARTICLE 12

PROHIBITION OF WAR AND FORCIBLE TRESPASS

(1) The Members agree in no case to resort to war one against another or to commit or permit any persons under their jurisdiction to commit any breach of the world's peace except in resistance to acts of unprovoked aggression or when acting in co-operation with the Council in accordance with the provisions of this Covenant.

(2) The Members also agree that they will not forcibly enter or seize territory or property one of another except when acting in co-operation with the Council in accordance with the provisions of this Covenant or under the authority of a judgment of the Court, or in pursuance of some other lawful authority.

(3) If a Member is of opinion that another Member is committing a breach of this Article it shall have the right to bring the matter to the notice of the Council.

(4) The Council shall take the complaint under consideration and, if it is of opinion that the complaint requires investigation, may arrange for inquiries and investigations in one or more of the countries concerned. Such inquiries and investigations shall be carried out with the utmost possibl

despatch and the Members undertake to afford every facility for carrying them out.

(5) If the result of such inquiries and investigations is to establish a breach of this Article the Council shall summon the State or States guilty of the breach to put an end thereto forthwith or within a specified time.

(6) If any Member fails to comply with such a summons the Council may apply to the Court for a declaration that such Member has been guilty of a breach of this Covenant and the Court shall have power to make such a declaration.

ARTICLE 13

CONCERN OF LEAGUE WITH WAR AND THREATS OF WAR

(1) Any war or threat of war, whether immediately affecting any of the Members or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary-General shall on the request of any Member forthwith summon a meeting of the Council.

(2) It is also declared to be the friendly right of each Member to bring to the attention of the Assembly

or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends.

ARTICLE 14

ARMAMENTS

(1) The Members recognize that the maintenance of peace requires the reduction and limitation of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

(2) The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

(3) Such plans shall be subject to reconsideration and revision at least every ten years.

(4) After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

(5) The Members agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being

had to the necessities of those Members which are not able to manufacture the munitions and implements of war necessary for their safety.

(6) The Members undertake to interchange and to supply to the Secretariat of the League full and frank information as to the scale of their armaments, their military, naval and air programmes, and the condition of such of their industries as are adaptable to warlike purposes.

ARTICLE 15

OBLIGATIONS AS TO INTERNATIONAL CONDUCT

Every Member acknowledges itself to be under the following obligations to the League and agrees that such obligations shall be enforceable in a case brought before the Court on the application of the Council either as a result of a complaint made to the Council by a Member or upon the initiative of the Council itself, namely:

(1) An obligation not to defraud, oppress, or stir up enmity against another Member, or seek to create disorder in the territory of another Member.

(2) An obligation not to pursue or maintain or permit the persons under its jurisdiction to pursue or maintain political, social, economic, financial or other activities or methods unfair to any other

Member or the persons under the jurisdiction of any other Member.

(3) An obligation to afford and secure to all other Members reasonable facilities for persons and goods to enter into and leave its territory and to pass through the same by road, railway, canal, air, or any other ordinary means of transit, and to secure that such entry and passage shall not be impeded by unreasonable, excessive, or unfair prohibitions, delays, duties, charges, terms or conditions.

(4) An obligation to afford to the Assembly, Council and Secretariat of the League, and to all bureaux, commissions, committees, boards, tribunals and other bodies set up by the League, and to the Court all such information and evidence within its power as may be required for the purposes of the investigation of international questions, the adjustment of international relations, or the settlement of international disputes.

ARTICLE 16

GUARANTEES FOR INTERNAL ORDER AND GOOD GOVERNMENT

(1) Every Member acknowledges itself to be under th following obligations to the League, and agree that such obligations shall be enforceable in a cas brought before the Court on the application of th

Council either as a result of a complaint made to the Council by a Member or upon the initiative of the Council itself, namely:

(*a*) The obligation at all times within all its territories—

(i) Effectually to preserve peace and maintain public order;

(ii) To guarantee the security of life, person and property, and personal liberty, subject to just laws;

(iii) To prevent oppression and persecution;

(iv) To ensure prompt, efficient and impartial administration of justice;

(v) To make all reasonable arrangements in order to ensure the preventing and remedying, so far as possible, of any aggressions, injuries, or breaches of agreement or obligation by persons under its jurisdiction against any other Member or any persons under the jurisdiction of any other Member.

(*b*) In the case of any Member having colonies or other territories under its government or control which are inhabited by natives not able to stand by themselves under the strenuous conditions of the modern world the further obligation with respect to such territories—

(i) To make provision for the well-being and just treatment of such natives, and adequate

opportunities for the intellectual and social development of which they are capable;

(ii) To give full recognition and protection to the rights and interests of the natives in their land;

(iii) To guarantee freedom of conscience and religion subject only to the maintenance of public order and morals;

(iv) To prohibit abuses such as the slave trade, the arms traffic, and the traffic in liquor demoralizing to native life;

(v) To prevent the establishment of fortifications or military or naval bases and the military training of the natives for purposes other than police and the defence of the territory.

(*c*) In the case of any Member governing territory as a Mandatory on behalf of the League the further obligation to observe and perform the requirements of the Mandate and to render to the Council an annual report in reference to the territory.

(2) The Council shall keep constituted a permanent commission to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the Mandates.

ARTICLE 17

INTERNATIONAL LEGISLATION

(1) The League shall have power to make international laws, and in so doing to repeal, vary, or amend existing principles or rules of international law or any law made by the League in pursuance of this Article.

(2) International laws made in pursuance of this Article shall be accepted by the Members as authoritative and binding.

(3) Any proposal for exercise of the power conferred by paragraph (1) of this Article shall be made by a Member or by the Council to the Assembly and if entertained by the Assembly shall be referred by them forthwith to the Legislative Commission for consideration, report and recommendation.

(4) An international law shall be deemed to have been made by the League if and when it has been recommended by the Legislative Commission as a result of a proposal made under this Article and has been approved, in its original or any amended form, by special resolution of the Assembly, and in the form so approved has been ratified by Members together entitled to exercise not less than three-fourths of the whole voting power of the Members in the Assembly.

(5) For the purposes of this Article the expression

"international laws" shall include, in addition to any other laws covered by that expression:

(*a*) Laws concerning the rights, duties and obligations of States in relation to one another and in relation to the League of Nations;

(*b*) The legal principles for adjusting conflicts between national laws of particular States;

(*c*) Laws providing for common international rules and regulations and common international organizations, institutions, systems and services with respect to money and central banking, weights and measures, traffic by land, water, air, and submarine, passport arrangements, postal, telegraphic, telephonic, and wireless arrangements, an auxiliary language, an international police force with military, naval, and air contingents, public holidays, daylight saving, measurement of time, fisheries, prevention and control of slavery, crime, and disease, protection of animal, bird, and fish life, public works, and any other facilities and arrangements.

(*d*) Laws to make provision with respect to:

(i) The reduction and limitation of national armaments and the regulation of international trading in arms;

(ii) The reduction and limitation of import and export tariffs, currency exchang

restrictions, and any other barriers to international trade;

(iii) The rendering of any Convention adopted by the General Conference of the International Labour Organization binding upon all the Members;

(iv) The taking of any measures by the Council under Article 21 of this Covenant and co-operation by the Members with the Council and each other for assisting such measures;

(v) The carrying out of any of the functions or work and the execution of any of the powers of the League or any of its organs or subsidiary bodies, and the setting up and working of any regional arrangements for those purposes.

ARTICLE 18

HARMONIZING OF NATIONAL WITH INTERNATIONAL LAW, AND PROMOTION OF UNIFORMITY BETWEEN NATIONAL LAWS

(1) The Members recognize a duty to bring the national laws of their respective States into harmony with the provisions of this Covenant, and with the provisions of any international laws for the time being made and in force under

Article 17 and with the acts and decisions of the League, the judgments of the Court, and the orders of the Equity Tribunal.

(2) The encouragement and promotion of uniformity between the respective national laws of the Members on subjects with respect to which the common good of the world requires such uniformity shall be a matter within the sphere of action of the League.

ARTICLE 19

DISPUTES BETWEEN MEMBERS

(1) If there should exist or arise between Members any dispute which is not settled by other means the parties thereto shall submit such dispute to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who shall make all necessary arrangements for a full investigation and consideration thereof. For this purpose the parties to the dispute shall communicate to the Secretary-General as promptly as possible statements of their cases with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

(2) The Council shall endeavour to effect a settlement of the dispute, and if the endeavour is successful a statement shall be made public giving such facts

and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

(3) If the dispute is not thus settled the Council shall deal with the same in the following manner:

(*a*) If the dispute relates to a legal matter the Council shall direct that it be submitted for judicial settlement by judgment of the Court, and the parties thereto shall thereupon refer the dispute to the Court accordingly.

(*b*) If the dispute relates to a non-legal matter the Council shall direct that it be submitted to the Equity Tribunal for impartial inquiry, report and recommendation, and the parties thereto shall thereupon refer the dispute to the Equity Tribunal accordingly.

(4) In this Article:

(*a*) The expression "a legal matter" means any matter (not being a claim by a Member for variation of or departure from its legal rights or obligations in relation to another Member arising from treaty or international law) which comes under one or other of the following classes:

(i) The interpretation of a treaty;

(ii) Any question of international law;

(iii) The existence of any fact which, if

established, would constitute a breach of an international obligation;

(iv) The nature or extent of the reparation to be made for the breach of an international obligation; and

(*b*) The expression "a non-legal matter" means:

(i) A claim by a Member for variation of or departure from its legal rights or obligations in relation to another Member arising from treaty or international law; or

(ii) Any other matter not being a legal matter as defined in this paragraph.

(5) With respect to any dispute referred under this Article to the Equity Tribunal the following provisions shall apply:

(*a*) Should a Member, not being one of the parties to the dispute, consider that it has an interest which may be affected by the recommendations of the Tribunal, it may submit a request to the Tribunal to be permitted to intervene as a third party in the case before the Tribunal. It will be for the Tribunal to decide upon this request.

(*b*) The Tribunal shall have power to indicate to the Council and to the parties, if it considers that the circumstances so require, any provisional measures which ought to be taken to reserve the respective rights or position of either party.

(*c*) The Tribunal, after full inquiry and due hearing of the parties, shall make a report to the Council containing a statement of facts concerning the matters in dispute and any recommendations which the Tribunal may deem just and proper in regard to the dispute.

(*d*) The Tribunal shall make no recommendation as to any matter which in its opinion involves no right, obligation, duty, interest, status or conduct of a Member in relation to another Member or any person under the jurisdiction of another Member or in relation to the League, and ought therefore to be treated as a matter solely for domestic jurisdiction.

(*e*) Any recommendation of the Tribunal, if and when it is confirmed by a special resolution of the Assembly, shall become an Order of the Tribunal binding on the parties to the dispute and upon any Member which has been permitted by the Tribunal to intervene as a third party in the case.

(*f*) Unless otherwise decided by the Tribunal every party appearing or joining in any proceedings before the Tribunal shall bear its own costs with respect to such proceedings, but the Tribunal shall have power to require any party so appearing or joining to pay the whole or any part of the costs of any other such party, and the amount of the costs so ordered

to be paid shall be a debt due by the party against whom such order is made to the party in whose favour such order is made.

(*g*) The hearing of the parties shall be public unless the Tribunal for special reasons shall decide otherwise or unless the parties demand that the public be not admitted.

(6) After a dispute has been submitted to the Council under this Article, the parties to the dispute shall abstain from any sort of action whatsoever which may aggravate or extend the dispute, and the Council shall have power at any time before the dispute is referred to the Court or to the Equity Tribunal under this Article, to indicate to the parties, if it considers that the circumstances so require, any provisional measures which ought to be taken to reserve the respective rights or position of either party.

(7) The Members agree that they will carry out in full good faith any judgment of the Court in any case referred to it under this Article, and any Order of the Equity Tribunal made binding under this Article.

(8) The Members agree that they will carry out in full good faith any judgment of the Court in any case lawfully brought before it otherwise than under this Article.

APPENDIX

ARTICLE 20

BREACH OF OBLIGATIONS BY MEMBERS

If any Member:

(*a*) fails to submit a dispute to the Council when so required by this Covenant;

(*b*) fails to refer a dispute to the Court or the Equity Tribunal when so directed by the Council in accordance with the provisions of this Covenant;

(*c*) fails to carry out any judgment of the Court in any case referred to it under this Covenant or otherwise lawfully brought before it;

(*d*) fails to carry out any order of the Equity Tribunal made binding under this Covenant;

(*e*) commits a breach of any of its obligations under Articles 15 and 16 of this Covenant; or

(*f*) commits a breach of any obligation binding upon it under international law and affecting the interests of the League generally;

the Council may apply to the Court for a Declaration that such Member has been guilty of a breach of this Covenant, and the Court shall have power to make such a Declaration.

ARTICLE 21

SANCTIONS

(1) If the Court shall have made a declaration under Article 12 or Article 20 of this Covenant that a Member has been guilty of a breach of this Covenant, the Council may take such measures authorized by or under this Article as it may deem appropriate to the particular case, and as the Court may by order approve for the purpose of securing that such breach shall be put an end to.

(2) Unless and until otherwise provided under the code of regulations referred to in paragraph (4) of this Article the measures hereinbefore referred to may take the form of financial pressure, the pressure of an economic boycott, police pressure by land, sea, or air forces, or any other form of pressure which may be sanctioned by special resolution of the Assembly, and the Council may, with the approval of a special resolution of the Assembly, prepare any plans, make any arrangements, and establish, organize, and maintain any forces that may be likely to be required for the purpose of any measures to be taken by the Council in pursuance of this Article.

(3) The Members agree to co-operate loyally and effectively with the Council and with each other for assisting any measures which may be taken by the Council in pursuance of this Article.

(4) It shall be the duty of the Council to prepare and propose to the Assembly for legislation under this Covenant a code of regulations to govern the taking of the measures referred to in this Article, and to prescribe the procedure to be followed by the Council and by the Members for and in connection with the taking of such measures.

(5) Any costs incurred by the Council in giving effect to the provisions of this Article shall be paid as part of the expenses of the League, and the Court shall have jurisdiction, on the application of the Council, to order that any such costs shall be repaid to the League by any Member to whose breach of this Covenant such costs are due.

(6) Nothing in this Article shall prejudice or affect the general jurisdiction of the Court in regard to reparation for the breach of international obligations.

ARTICLE 22

DISPUTES WITH NON-MEMBERS

(1) In the event of a dispute between a Member and a State which is not a Member, or between States not Members, the State or States not Members shall be invited to accept the obligations of membership in the League for the purposes of such dispute upon such conditions as the Council may deem just. If such invitation is accepted, the provisions

of Article 19 shall be applied with such modifications as may be deemed necessary by the Council.

(2) Upon such invitation being given the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

(3) If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member, the Council may take such measures as it may deem appropriate and as the Court may by order approve for the purpose of ending hostilities. The provisions of paragraphs (2) (3) (4) (5) and (6) of Article 21 shall apply with respect to such measures as if they were measures taken by the Council under paragraph (1) of that Article.

(4) If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

APPENDIX

ARTICLE 23

REGISTRATION AND PUBLICATION OF TREATIES

Every treaty or international engagement entered into hereafter by any Member shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding unless so registered.

ARTICLE 24

ABROGATION OF INCONSISTENT OBLIGATIONS

(1) The Members severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not enter into any engagements inconsistent with the terms thereof.

(2) In case any Member shall, before becoming a Member, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.

ARTICLE 25

SOCIAL ACTIVITIES

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon and international laws for the time being in force, the Members:

(*a*) Will endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations;

(*b*) Will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;

(*c*) Will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;

(*d*) Will make provision to secure and maintain freedom of communications and of transit, and equitable treatment for the commerce of all Members;

(*e*) Will endeavour to take steps in matters of international concern for the prevention and control of disease.

ARTICLE 26

CENSUS

Every Member agrees to take on the day of in the year and on the same day in every fifth succeeding year an accurate census of all the persons then residing within its territorial boundaries as recognized by the League (including its Dominions, Colonies, Possessions, and Protectorates not being themselves Members), and to register with the Secretariat of the League the results of such census within six months from the taking thereof.

ARTICLE 27

INTERNATIONAL BUREAUX AND COMMISSIONS

(1) There shall be placed under the direction of the League all international bureaux established before January 10, 1920, by general treaties, if the parties to such treaties consent.

(2) All such international bureaux and all commissions for the regulation of matters of international

interest constituted on or after January 10, 1920, shall be placed under the direction of the League.

(3) In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaux or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

(4) The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

ARTICLE 28

PROMOTION OF RED CROSS

The Members agree to encourage and promote the establishment and co-operation of duly authorized, voluntary national Red Cross organizations having as purposes the improvement of health, the prevention of disease, and the mitigation of suffering throughout the world.

APPENDIX

ARTICLE 29

AMENDMENTS

Amendments to this Covenant shall take effect when voted by a special resolution of the Assembly and ratified by Members entitled to exercise not less than three-fourths of the whole voting power of the Members in the Assembly.

ARTICLE 30

COMMENCEMENT OF OPERATION

This Covenant shall come into operation upon the accession thereto, without reservation, of all the States mentioned in Part I of the Annex hereto and all the Dominions or Colonies mentioned in Part II of the said Annex and thereupon the Covenant of the League previously in operation shall cease to operate.

ANNEX

PART I

Recognized as Fully Self-governing States and Members of the League of Nations on the coming into operation of this Covenant.

PART II

Recognized as Fully Self-governing Dominions or Colonies and Members of the League of Nations on the coming into operation of this Covenant.

PART III

Secretary-General of the League of Nations on the coming into operation of this Covenant.

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